

# INDIAN POLITICAL PHILOSOPHY

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## CHAPTER I

### TYPES OF THEORIES

#### Origin of the State

The origin and nature of the state received at the hands of early Indian thinkers treatment of various kinds from the most imaginative to the most rational. The general tendency to turn everything into mythology is much too profuse in ancient thought, and important truths are conveyed to the popular mind through myths and fables, symbols, parables and allegories of many types. It is underneath such data that strictly rational thought peeps out of the mass of parabolic teachings and spiritualised stories. Sometimes the same author will deal with the subject in both ways, as is illustrated in the case of the 'Maun-Smriti'. One can hardly be sure under such circumstances about the real views of the author. Old traditions handed down from a long time are mixed up with fresh speculation without a thorough criticism of the former. There are, moreover, in later times a few attempts to synthesise the old with the new. Reverence for antiquity appears to have stood against any adequate criticism of the old mythological stories, which tried to present speculative thought on important social and political problems and gave a glimpse of truth, deep and high, out of the usual figurative clothing ; otherwise no satisfactory

explanation is possible for the rise as well as for the development of the theories of different kinds. Only a short survey is attempted in this section, showing the varieties of the theories of the state. Its nature is a question, which is taken up in a separate chapter, viz. the Theory of the Constitution and the Analysis of the State, although the Hindus did not evidently give much attention to such an analysis. In tracing the origin of the state its nature also became partially apparent, the two questions being intimately inter-related. Taken in conjunction with the nature of Kingship, a more comprehensive idea of ancient polity may be had from a comparison and contrast of the materials bearing on the subject.

(1) The historical birth of the state is a question which does not concern Political Philosophy; its interpretation as a fact of human experience made the seers of old think about its nature when they tried to explain it in their own way. They looked upon it from the standpoint of their religious attitude to the world about them. The most ancient theory regarding the state is that it is of divine origin, a creation by the direct will of God. Professors Banerjee<sup>1</sup> and Bhambhakar<sup>2</sup> have accepted this view with reference to monarchy, which was the model of the state in olden times. Saraswati is of the same opinion.<sup>3</sup> Although their treatments are different in respect of details, they all agree as regards the general interpretation. Hence the state is interpreted as the "immediate work of God".

## 1. Divine Origin

In social theory the Divine Primal Person supplied an idea of unity behind the manifold elements of society.

<sup>1</sup> *Pol. Science in Anc. Ind.* p. 75.

<sup>2</sup> *Commented Lectures*, 124.

<sup>3</sup> *Hindu Rajas* p. 22.

The same idea shows how the state is a manifestation of and a growth out of the divine. The oldest reference is contained in the *Parashar Śukta* (verses to the Divine Person) quoted below—

"The Brāhmana was his mouth,  
Of both his arms was the Rājanya made,  
His thighs became the Vaiśya,  
From his feet the Śūdra was produced<sup>1</sup>."

These verses are an effort at interpreting the political structure of the time from the standpoint of a pervading principle of unity, as in the case of the larger fabric of society as a whole. The co-ordination of the social elements is illustrated on the basis of these lines. A further development takes place, when the idea is applied to politics and to the state, as a political concept. Thus the source and the meaning of the Monarchical State may be traced here and it is perhaps the earliest available pronouncement of the sages of the Rig Veda on this question. In a figurative way it gives the source of society and of the state, as of the human race as it was then known to them.

(a) The ruling caste (the Rājanya) is said to be the "sun" of the divine body, being represented by other members, the other castes, signifying thereby that there is a spark of divinity, or its manifestation, in the monarch as well as in his subjects. But it is the divine power operating through the king that keeps society in order and makes government possible. In other words the king is a part of the divine order giving expression, under the conditions of time and space, to the very power of the

<sup>1</sup> Rig Veda, X 93, Griffith's Translation; also Vāsa Purāṇa, 188.

"*De'bhāgopuraṃ mūḥamānūṣaṃ āstrajāḥ kṛtāt*".

"*Uraḥ kṛtāvyaḥ yajñakṛtāt pādāḥ kṛtāt śūdrāḥ kṛtāt*".

(Lalita's RS, Vol. X p. 151; Max Müller's RS, Vol. II, p. 546)

divine revealed in human society. The word "arm" shows the figurative use of the idea. It is confirmed in the *Ithagvata Purāṇa*<sup>1</sup>, where the rulers of men are spoken of as 'the arms of the incarnate god Vishnu', and again later on as the "embodiment of his power"<sup>2</sup>. In course of time this idea made the very person of the king divine, though not exactly in the sense of "the divine right of kings" which is treated in a separate chapter<sup>3</sup>.

(b) P. N. Saksena, in his *Hindu Rajas*<sup>4</sup>, clearly identified royal power with divine power in explaining the passage under review. And in the theory as much as in the practice of by-gone ages, "the ruling class represented this preserving force in the conservation of society, the king being the symbol, or the instrument, through which order ruled the world"<sup>5</sup>. Hence "monarchical power is divine power" is only a different proposition following from the *Purusha Sukta* of the *Rig Veda* and monarchy is shown to have its root in the metaphysical background of the universe<sup>6</sup>. Another authority, V. S. Ghate, follows Dr. Haug in giving a fuller explanation. Dr. Haug is also cited in Muir's *Original Sanskrit Text*<sup>7</sup>. Mr. Ghate says, "The passage has no doubt an allegorical sense..... The arms are the seat of strength. If the two arms of the *Purusha* (divine person) are said to have been made a *Kshatriya* (warrior), that means, then, the *Kshatriyas* have to carry arms to defend the empire"<sup>8</sup>. The original word

<sup>1</sup> III. 15. Harvard Edition p. 110—"Chakrapāṇa varāṇam-āya vāya prakāśayitāṇi" (III, 15) i.e. "Smellikāṇi varāṇi prakāśayitāṇi varāṇi prakāśayitāṇi" (Harvard Edition, p. 110).

<sup>2</sup> III. 16. Harvard Edition p. 112. "Kshatriya-jāyate rajāṇāṁ varāṇāṁ prakāśayitāṇi" (III, 16) i.e. "The two arms represent the prakāśayitāṇi prakāśayitāṇi" (Harvard Edition, p. 112).

<sup>3</sup> See Table, the Divine Right.      <sup>4</sup> *Hindu Rajas*, p. 3.

<sup>5</sup> See Table, p. 10.      <sup>6</sup> Volume I, p. 14.

<sup>7</sup> *Lectures on Rig Veda*, p. 227.

"rājanya" of the verses is a class name and literally means "prince (and warrior)", and therefore by implication the ruling class, i.e., the Kshatriya caste. Commenting on the verses, Griffith in his translation of the *Rig Veda* says—  
 "The arms of the Purusha became the Rājanya, the prince and soldier, who wields the sword and spear—the second or Kshatriya caste, the royal and military class"<sup>4</sup>.

Subsequent movements of political thought grew more and more abstract, as they became necessarily deeper, and learnt to assimilate social facts. The *Mahābhārata* and the *Mānu Smṛiti* illustrate these tendencies. It is curious that the Vedic seers took no proper notice of the origin of the state. It might have been due to sacerdotal tendencies, which also changed with the advance of time. A more refined figure of speech will thus be found in the Epic account of the state, while in thought that is quite original. *Mānu* leaves all behind in rising to an abstraction of the State, which is cut off from society and human nature. All these undoubtedly mark the gradual clarity and progress of philosophical as well as political thought, and the important cultural progress of the age.

### 3. Mixed Origin

The *Mahābhārata* gives a fuller and more comprehensive account of the divine origin of the state deductively from religious mythology and provides also an explanation, which tries to elucidate the construction of society by the same method. It is mixed in the sense of combining the influences of different types of thought and is the most original of all the theories. The intimate interpenetration between gods and men in the Epic accounts is almost Homeric in character and the fanciful details are interesting as well as suggestive, even though inexplicable in some ways.

<sup>4</sup> *Rig Veda* N. 10, Vol. II, p. 203.

"In the Krita (golden) Age there was no sovereign, nor king. All men used to protect one another righteously. Soon after they were assailed by male upstarts and in its train followed Bhoga (greed), Maya (power), and Raja (unrestrained indulgence), and corruption thus set in and the Vedas (knowledge) and Dharma (righteousness) were lost. The gods were overcome with fear and repaired to Brahma (the god of creation). 'O Lord of the three worlds in consequence of the cessation of all pious rites among men, great distress will be our lot. Please therefore find out means that the *Natural Law* may not be destroyed, which was established out of your own power'. Thus addressed, the god composed the heuristic teaching of Dharma (righteousness), Artha (wealth), Kama (right desire), Moksha (salvation), for the guidance of men. This was abridged many times to suit the needs of men who were becoming more and more short-lived and consequently the plan failed and something else had to be done. The gods then approached Vishnu, the god, who preserves creation. This god created by a fiat of his will a son born of his Sakti (astro, effulgence) named 'Vishva', who took to an ascetic life. His son Kirtiman was like the father, then followed Kartana, Ananga, Atibal, Vesa and Pritha. Vesa was killed for murder, but Pritha was elected in his place on taking the vow of an understanding with the people. He was finally called to the throne. The divine Vishnu then entered into the person of the sixth monarch of this dynasty, hence the king is called "Nara-Dev" or a god in human form".

Here the entry of the divine element into the human is described as taking place through the king, who is the



instrument, as it were, for such an operation.<sup>1</sup> The mythic element is also more elaborate in the Epic than-political thought than in its Vedic counter-parts, a full-blown story taking the place of simple assertion.

It is further told in the epic that "a king conversant with Dapda-Nîâ, i. e. the science of punishment, is really a portion of the god Vishnu on earth".<sup>2</sup> If the social element at the beginning of this account is subtracted, a close resemblance may be seen to the declaration of the Śatapatha Brâhmana in the next section and to Manu's doctrines, particularly, of kingship.<sup>3</sup> The basic thought in all cases is the entry of the divine through the king as the medium. Evidently the Epic theory has gathered up the influences of heterodox thought, the effect of the old custom of the election of kings, to suit orthodox interpretation and thus marks a real advance almost to the very edge of the theory of the social contract. Probably orthodoxy had to slacken off, or was opposed successfully, before the contract theory could rise to the surface. But political ideas were becoming abstract as well, and divested of figurative clothings, -so as to drop as much as possible all metaphysical concepts.

### 3. Abstract origin

(c) In the Manu Smṛiti the same theme occurs only in a more abstract form. The legal side of the subject naturally comes into prominence in a book of ancient laws.

<sup>1</sup> Śaṅkī Târâ, 59 (abridged and adapted). See M. N. Sastri's *Tris.* vol. II, p. 63 ff. It is different in many respects, perhaps due to the textual differences in the absence of a good edition.

<sup>2</sup> This is partially like the idea of Irenæus—"A ruler is not only the minister of God's mercy for sin, but the instrument of His punishment" (Curlye, *Hist. of Med. Pol. Theory*, Vol. I, p. 145 (Cambr. Lon. p. 1896).

<sup>3</sup> Sastri, *Theory of Kingship*.

The sceptre is personified and spoken of as the emblem and authority of the State. This abstract conception of the sceptre in its representative capacity becomes not only the source from which the State comes into being, but also that of its authority. It chastises, preserves, corrects and destroys. It is the representative of righteousness and is the son of the god, Brahmā, who created the universe and all that is in it.

"In ancient times for fulfilling the object of the state (kingdom) the god Brahma created out of his own lustre the royal sceptre as his own son of righteousness for the protection of all beings. This sceptre indeed is the king and the royal power, is the person (energy) and ruler of the state and is the representative (generation) of Dharma (righteousness) in all the four stages of the lives of the people".<sup>3</sup>

The last line of the last verse admits of a second explanation, viz. the sceptre may be taken as the representative of the Dharma (law) of the people as well as of the people themselves. The commentator Rāghavānanda has added the important point that "danda was created before the creation of the king." That is to say the king who wields the sceptre (danda), is an agent to the state for the purpose of its efficient working. The state does not arise with the

1. **Week 3 of 6: TUE 14-15**

<sup>17</sup> Tey laula carniat allach guplloch, chawmawngvayl  
Bachawngmawng chawmawngvayl p'chawmawng  
In yit paraw chawmawng in yit chawmawng, chawmawng  
Chawmawngmawngvayl chawmawngvayl chawmawngvayl

(Shelton and Kline, 1992, p. 243)

Scott P. M. Kelly, p. 218, where Kelly has translated the word "daga" as "punishment", but "daga" is the royal scepter or staff and more often as an extension use. In this the scepter is supposed to be the instrument for inflicting punishment.

<sup>1</sup> *Heidegger's Edition of Hegel*, II, p. 560–1; cf. also *Heidegger's* 1977, 10.

king, on the contrary it goes to create the office of kingship.

This appears to be a very abstract way of idealising the State in the symbol of the sceptre and is in fact an apotheosis of the royal sceptre itself. In the theory of the authority of the State, which comes into operation in taxation and punishment, an important part is played by the doctrine of *dapda*, the sceptre.<sup>1</sup> The source of such authority is traced back to it; it is this which holds the people in general, as well as the king himself, under its sway. As an instrument of punishment the sceptre is clothed with moral authority of law and order (political and social). It is powerful enough even to destroy the monarch himself, who wields it for the preservation of the State, when that very preservation is jeopardised by his own conduct.<sup>2</sup> This abstraction of the source of sanctions necessarily stands above Law and makes Mann's politics more than Aristotelian in character, ultimate sovereignty being pushed back into the symbol of the sceptre itself. Śakra has in the same strain idealised the royal seal—"The king's seal is the real king, the king is not the king". But this is only a passing remark by Śakra in no way connected with his principal theory. Mr. Jayaswal has hinted that this peculiar theory of *dapda* of Mann was arrived at evidently on revision in contradiction to the other theories of the *Mānava* code.<sup>3</sup>

Professor P. N. Benerjee seems to use the point in the theory<sup>4</sup> by taking up a different verse from the law-giver Manu. It treats of the king as a special creation of God and reference will be made to it under the section on the nature of kingship. Professor B. K. Sarkar in his *Political*

<sup>1</sup> Śakra, *Śaṅkara on the Doctrine of Dapda*.

<sup>2</sup> *Mānava Smṛiti*, VII, 12, 13; see S. R. S. XXV, p. 320.

<sup>3</sup> Śakra NRI, p. 92.

<sup>4</sup> *Manu & Vyāsaśāstra*, p. 92.

<sup>5</sup> *Pub. Address in Ass. India*, p. 71.

Theories and Institutions of the Hindus<sup>1</sup> strikes at the real issue by pointing out that the king is only the "Dapṣa-Dhara"—the holder of the sceptre—as a public office. This common appellation comes from Kaṇvaśaka and Śakra, who have called the king "Dapṣa", the sceptre itself and "Dapṣi", i.e., the possessor of dapṣa or sceptre.<sup>2</sup> In dealing with the divine origin of the State it ought to be remembered that the most important element in it is the entry of the divine somehow or other into the human organisation of society concentrated into the State. This element in the two instances is the bestre or effulgence of the two gods Viṣṇu and Brahmā, out of which the creation of the State has become possible as from a root or basis. Professor Bhaṇḍarkar has shown it clearly as an aspect of Hindu political thought.<sup>3</sup> Similarly Professor Banerjee has quoted Manu Smṛiti, VII, 3<sup>4</sup>, which has been treated in a separate section according to the nature of the subject-matter of the verse. It is left out here in view of its special application to the nature of kingship. Closely connected with this abstract theory is Kaṇvaśaka's conception of "Prabhā-Śakti" or masterly (sovereign) power<sup>5</sup>, also expressed as "prabhāva" or simply power, as in the Mahābhārata and the Nīlakaṇṭha-smṛiti.

## (II) The most popular theory of the origin of the State

<sup>1</sup> Pol. Theo. Inst. of the Hindus, p. 125.

<sup>2</sup> Kāśi Sm., pp. 39, 42 & 52.

"Damoḥapṣa hi pṛakṣa manoharāḥ dapṣa mṛṇmūlā"

"Prājñātaś cā tatkaṁ samyag dṛṣṭvā dapṣam dhṛtyā"

(Kaṇvaśaka Smṛiti's VII, pp. 30, 31.)

Śakra Sm., p. 25—Śakra has the same verse word for word.

"Damoḥapṣa hi Bhṛṅgān ānāśāśāpṣa mṛṇmūlā". (Vedya Smṛiti's

Ed. p. 103. Vāts., p. 105 rules and Jolly, Hindu Law and

Customs p. 354. (Raj. Trans.)

<sup>3</sup> Overland Lectures, p. 125. <sup>4</sup> Pol. Admin. Anc. India, p. 71.

<sup>5</sup> Manu Sm. p. 135—"prabhāva"—p. 6. Also Nārada-smṛiti, p. 147. Mahābhārata parva, PBI, 1131. Vāts. Sm. Chap. VIII & X,

is that of the social contract and it is one of the oldest considering the numerous direct and indirect references to it in Sanskrit Political literature. It is also the most common, in as much as it is invariably found in some shape or other in all the works of practical Hindu politicians. It is either quoted or alluded to by almost all the authorities and seems to have been accepted without much criticism. The Buddhist version is natural enough, as will be seen below, but has not the positive critical outlook of Locke and Hume on the contract basis of naturalistic politics. The earliest mention of the root idea is in the Rig Veda without any political significance and the latest is in the inscription of a medieval king of Bengal of the Pal Dynasty, when the phrase was already well known and was partially proverbial.<sup>1</sup> Coming between these are the allusions in the Manu Smṛiti, the Mahābhārata, Artha Śāstra, Mātṛya Purāṇa, and the Kaṇvadeva's Nīti Śāstra. It is the conception of imaginary anarchy tersely depicted in the phrase, "the logic of the fish", that served for the starting point of the theory, and its Western analogues are Spinoza's "natural right" in his Tractatus Politicus and Hobbes' "general war" in his Leviathan. The references, given in the note at the end of this work, show how prevalent was the central idea of the social contract theory in Ancient India.

#### 4. Contract Origin

In the Buddhist Literature (Pāli) there does not seem to be any reference to the famous phrase, "the logic of the fish", which is so frequent in the Sanskrit works, but the social contract theory is clearly recognised as an account of the origin of the state, and it appears to be its earliest

<sup>1</sup> See *Infra*, Note on Etymology.

form. Its simplicity and naturalness are points of great importance. It seems that the substance of the theory is maintained, while the popular Sanskritic phraseology is absent<sup>1</sup>.

"So they gathered together and made one of themselves lord over their field with these words:—Henceforth thou shalt punish those of us, who deserve punishment, and recompense those of us, who deserve recompense, and we shall give thee (for this work) a portion of the produce of the fields and of the fruits collected by us".<sup>2</sup>

This account is in connection with the election of the Mahāmāyāta or the first king. Another version of it from the Dīgha Nikāya is quoted by Professor Ghoshal<sup>3</sup> and it relates, like the Mahābhārata, how people were at first good and righteous, but their nature in course of time underwent a change for the worse, which necessitated the election of the Mahāmāyāta. Therefore they chose the most handsome, gracious and powerful amongst them saying—"Come here, O being! Do punish and revile and exile those, who will deserve to be punished, reviled and exiled. We will give you a portion of our rice", for this service. He was called Rājā (king) 'for pleasing the people' and ever since the idea has become proverbial. A critical estimate of the Buddhist view of contract is attempted in the chapter on Popular Political Authority together with its other associated traditions.

<sup>1</sup> The problem of the growth of "the logic of the fact" has still to be solved in relation to the Buddhist contract theory.

<sup>2</sup> Booked's *Buddhas*, p. 1.

<sup>3</sup> *Carnegie Lectures*, p. 214. See Ghosh's *Indian Pol. Theory*, p. 221.

<sup>4</sup> Aggañña Sutta of the Dīgha Nikāya, III, p. 98 ff. An identical account is given in the Mahābhārata (Bharatī, 267. Śānti Parva, 26. In the same root and meaning. Mr. Jayaram has suggested a scientific philosophy. See Chs. II, VIII, and also IV.

In the *Śatapatha Brāhmaṇa*,<sup>1</sup> is found the account of the social contract theory in its unmitigated form and fullest details. It is in substance as follows :—

"In olden times there being no king on earth men began to eat one another like fishes. Then a few righteous men assembled together and made this rule that any one who would be harsh, haughty, adulterous and thievish was to be deserted by the rest. In order to rouse trust in all, the people made this law and spent some time well. But at last they went to the creator of all men, the god Brahmā, with great sorrow and anxiety and said, "Lord, we perish for want of a king, so please give us a king, who will protect us and we shall worship him". The god Brahmā having heard this complaint ordered Manu to be king over them. But Manu declined saying :—"I am always afraid of sinful acts ; government, which means making wicked men righteous according to law, is a difficult task". Then the people told Manu not to fear, because sin would not be allowed to touch him. They would, for supplying him with finance, give him animals, 50th part of gold and 10th part of paddy. In case of quarrels, vice, gambling and toll-taking he would get beautiful girls (as fine). And those, that are qualified in using weapons and riding animals, would follow him as gods follow their chief. Then he would be able happily to protect them like Kavera (the god of wealth), so rich and powerful. They would also give him the fourth part of their religious merit for being thus protected by his prowess. Manu was further advised to march forth like the Sun-god to

<sup>1</sup> Chapter 61. Only the substance of the account is given in short. *Bull's Trans. II*, p. 55.

victory over the enemies and to crush their pride. Thus might dharma (righteousness) always protect them.

The narration of the compact here not only touches the questions of trust on the part of the people themselves, but enunciates those that are supplementary though none the less important, viz. finance, army, punishment and religion. All these elements so necessary for the State are also connected with this compact. The theory itself might have risen under the indirect influence of the old tradition of the Vedic practice of election, modified by monarchical tendencies,<sup>1</sup> yet it is not a mixed theory like the one dealt with in a previous section. The note will illustrate its wide-spread acceptance, whatever might have been its source. That the account of the Mahābhārata is probably one of the oldest and simplest form of this type of political thought is corroborated by the simplicity of the narrative as well as the well-rounded shape of the story,<sup>2</sup> in short by its developed character.

### 5. Rational Origin

(II) The ethical idea of 'Dharma', or truth and righteousness, is also applied to politics, so as to supply the foundation of the State. Undersneath the various types of Hindu political thought, strangely mixed up with mythology and even rationalism, there is found this natural perception of moral qualities to be the basis of society and the essence of human nature. Dharma represents the totality of the moral qualities called virtues, and the Hindu theory in this respect is not very much different from that of the Greeks. The philosophy and analysis of

<sup>1</sup> *Ibid.* Popular Authority, also Cf. *Vedic Index*, II, p. 314.

<sup>2</sup> Cf. *Gandhian Lectures*, p. 175.



'Dharma' make a separate chapter, while the conception itself is treated here as contributing to the evolution of the highest social structure, the State.

Dharma (righteousness) is natural to man and is the law of his being. The *Mahābhārata* points out the fact by saying that "Dharma is followed as a necessity, like eating and drinking for the maintenance of the body".<sup>1</sup> It is regarded as a natural need. Even so late a writer as Śakra, with all his practical insight, felt that "without *dharma* (the system of morals, i. e. dharma) the stability of no man's affairs can be maintained, just as without food the physical body of men cannot be preserved". "It (the science of morality) is considered to be the spring of virtue, wealth, enjoyment and salvation. It is useful to all in all cases and is the means for the preservation of human society".<sup>2</sup>

In the great Epic this doctrine of Dharma rises into prominence and supplies the highest possible idealism to political philosophy in ancient India. Dharma (righteousness) is said to be 'the root of the people and the immortality of the gods'<sup>3</sup>—the eternal source from which mankind as a whole has sprung. And again "Dharma is established for the course of the world"<sup>4</sup>, i.e. all human affairs depend on it. It is then directly identified with the course of the world itself<sup>5</sup> and coalesces with it, as the very principle underlying the activities of mankind. In other words the main spring behind the affairs of the world is righteousness, like the Universal Reason of the Stoics. This is why the earliest Aryan record, the *Rig Veda*, said that "god Varuṇa's righteous law established order"<sup>6</sup>

<sup>1</sup> Śānti Parva, 183.

<sup>2</sup> Śakra, *Kṣi*, p. 2.

<sup>3</sup> *Mahābhārata* Parva, 183.

<sup>4</sup> *Śrīmad Parva*, 13; *Mahābhārata* Parva, 126.

<sup>5</sup> *Agni-Bhāṣya* Parva, 141.

<sup>6</sup> *Udā*, IV. 40.

and this "Order dwells amongst men, in truth, in noblest places"<sup>1</sup>. By this was meant that human society is supported by divine law, as an expression of order or system based on reason that works in the world.

The Mahābhārata applies this idea to the social structure in general and to the State in particular. The formation of society through social and political instinct is the operation of an indwelling principle abstracted and objectified as truth. In fact, the place of this instinct is taken by truth; it may also be indirectly called by the name of truth. So it is declared—

"All is supported by truth, all is established in truth." "Through the power of truth, men thoughtless and haughty, formulate laws for rules of binding among themselves and then live in unity breaking mutually harmful thoughts. And if they break loose from this chain of order, surely all will perish in their turn". For "human constitution itself is created by God pure, sacred and dharmic-natured (i.e. having dharma as its nature)"<sup>1</sup>.

Nilakantha suggests in his commentary that—

"Even the shield cannot leave out truth" and hence "the promise" or binding.<sup>4</sup>

New York, N. Y. 10013

**Unpublished Manuscript, University of Michigan**

<sup>a</sup> Values are still without error bars.

Appl. Polym. Symp. 1980, 35, 1-10.

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We do not think this very surprising, considering that (Bergs) *et al.* (2004)

Thus the length, that underlies programs or programs, is itself a *length*.

[Interpreted on the basis of K. P. Smith's version, p. 1184.]

See K. S. Pollack, *Trans. Am. Math. Soc.* **359**.

100

<sup>a</sup>Values are means  $\pm$  SD.

*Staphylococcus aureus* (ATCC 29222) grown in 4% NaCl. These cells are 0.50<sup>+</sup> Bowley, E.L. of the *Highly Effective*, p. 120.

Now the question of the nature of truth and its connection with righteousness are similarly answered in an idealistic way. The shortest definition of truth is—*"Satyam yathārtha bhāṣanamāt bhṛtaśāstāśa"*<sup>1</sup>—i.e. truth is speaking out of the right thing and is the good of all beings—it is 'the common good'. It is not merely intellectual but metaphysical as well. Truth is made the root and source of righteousness—its essence and self—in the *Epic*, which says

"Dharmaḥ is protected by truth"<sup>2</sup>. "And as Dharma is possible without truth"<sup>3</sup>. "Truth is the container of Dharma and is Dharma itself."<sup>4</sup>

In the human mind dharma is kindness, friendship and goodwill.<sup>5</sup> In the outside world "Dharma is the security of all beings"<sup>6</sup> and it is the highest and the only good<sup>7</sup>. Moreover it consists in the carrying out of that good<sup>8</sup>. Therefore the natural conclusion is that "all beings live by dharma"<sup>9</sup>, and 'in its absence none can remain alive'<sup>10</sup>. The action of dharma is thus the well-being of the individual and no individual can be without it, if he wants to live at all.

The state can facilitate this process of the evolution of righteousness in society, in as much as "the king is created for the preservation of dharma (righteousness). . . .and he is the very likeness of dharma. . . .which lives in the shelter of kings"<sup>11</sup>. This is expressed in short

<sup>1</sup> *Hitā Parva* 261, p. 74. See *Varadachandrasekara* for *Hitā*'s thought. Cf. "Highest truth is itself reflected as the good, who are protected and friendly to all beings." (*Vijayachandrasekara Rāmāyaṇa* p. 24).

<sup>2</sup> *Yama Parva*, 201; *M. S. Dharm. Sans.*, Vol. I, p. 733.

<sup>3</sup> *Udyoga Parva* 26.

<sup>4</sup> *Ibid.*, 21.

<sup>5</sup> *Udyogadharma Parva*, 102.

<sup>6</sup> *Udyogadharma Parva*, 102, 103, 104.

<sup>7</sup> *Ibid.*, 102.

<sup>8</sup> *Paṇḍit Parva*, 74; *Śānti*.

*Parva*, 102.

<sup>9</sup> *Aranyak Parva*, 129.

<sup>10</sup> *Śānti Parva*, 10.

<sup>11</sup> *Aranyak Parva*, 61.

<sup>12</sup> *Śānti Parva*, 50.

by saying that "the state is the root of dharma". Hence "the king and dharma are inter-related" within the state and are mutually helpful. All types of Dharmas, i.e. laws of righteousness—moral, social and economic—are concentrated in the Ethics of the State.... thus "politics is the core of all dharmas". And "the king representing the state secures salvation for the people" even by his own sacrifices. The conception of the highest development of the individuals within the state is common to a certain extent to the Greeks as well as to the Hindus, both having perhaps the same type of mind from their ancestors before the time of their separation and migrations. The peculiarity of the Hindu ideal is its spiritual character running through everything. The highest good in the state is not an exception and so it is religious salvation. E. B. Havell has remarked, "Indo-Aryan Polity... was firmly based on the principle that right is right, or as the Mahābhārata puts it that 'the heavens are centred in the Ethics of the state'". (13.) N. N. Law has briefly explained the Hindu conception in connection with the religious ceremonies performed by the great kings of antiquity. "The ideal of the state as set forth in the Rgveda and later Sanskrit literature is the attainment of the *anuttama* bonum, i.e. *moksha* or salvation—the state is the machinery of the collective attainment of salvation (*moksha*) by the the people under its care through the fulfilment of their legitimate desires". The assurance is found in the great Epic that "just as the sun dispels darkness at dawn, so politics having come into operation saves men from the fears of invisible hell".

<sup>1</sup> Upan. Parva, 2.

<sup>2</sup> Book VII.

<sup>3</sup> Bhāṭi Parva, 54.

<sup>4</sup> Rāstrapala Parva, 1.

<sup>5</sup> Arjun. Bhāṭi in Indica, p. 100.

<sup>6</sup> Aspects of Ancient Indian Polity, p. 112.

<sup>7</sup> Bhīṣma Parva in Bhāṭi Parva, 55.

Attention has been drawn by Arambulo Ghose to this colossal task tried in ancient India. "The co-ordination or true union of the collective outward life with moksha, the liberated spiritual existence, has hardly ever been conceived or attempted, much less anywhere succeeded in the past history of the human race"<sup>1</sup>.

Before going into the next topic on kingship a few words are necessary to distinguish, in theory at least, between the Hindu treatment of the origin of the state and that of the rise of kingship, as two separate institutions within the larger organisation of society. The state being by nature more general is connected more closely with society, as a direct and necessary growth out of it. It is the concrete side of the abstract need for government of any form, monarchical or republican. Monarchy from this point of view is only a specialised development out of the state itself, as has already been remarked in passing at the beginning of this chapter. Yet both monarchical and non-monarchical states may arise straight from society without the assumption of any intermediate political form such as oligarchy<sup>2</sup>, even though it may not always be the rule. The history of Indian republics has a lesson to teach in this sphere in their rise, growth and decay<sup>3</sup>. Mr. Gopala Row's view in his "Self-government in Ancient India" is that kingship was established after a number of political experiments on the Indian soil. "Montesquieu... seems to have been of opinion that the best form of government need not necessarily be a republic only.... It may safely be inferred that our ancestors tried all the three forms of government,

<sup>1</sup> *Art & Culture of Indian Culture* by Arambulo Ghose, 1934, Calcutta, 1934, p. 218.

<sup>2</sup> *Ind. Soc.* 1929, p. 174. *Shriyama Radhakrishnan*, *Speeches*, 1st. Vol. *Indian Soc.*, pp. 12-14.

<sup>3</sup> See *Govt. in Republican Republicanism*.

via, monarchy, oligarchy, and republic, and after gaining due experience of all, at last, preferred monarchy to the other two forms and finally adopted it as their ideal'. Thus wherever kingship is said to originate direct from society at large, it stands for the monarchical state, while the introduction of the problem of the royal authority in itself, apart from the general social back-ground, seems to mean the justification of mere kingship untainted by any naturalistic politics of anti-theological type, the circumstances which necessitated it being unsavable today. The former is in reality a kind of theory of the state—monarchical—and the latter is practically an explanation for kingly power or royal office, as different from a concrete institution or a part of society, as a natural phenomenon. A careful study will show that the distinction holds good and the separation can be made although on the surface this is not so evident as it is expected to be.

The general tendency of Indian monarchical politics is represented in the canonical position of the law-givers, which is abstract in respect of rights and duties. This is the cardinal error of all theological politics in dogmatizing from abstract data detached from social facts.<sup>1</sup> It is to be remembered that politics does not grow in a social vacuum; and political institutions belong to a social structure as its parts.<sup>2</sup> A philosophical treatment on the contrary should take the whole into consideration yielding greater scope for critical thought.<sup>3</sup> None of the old Hindu theories is in this sense thoroughly philosophical, since they are invariably at some place or other mixed up with mythology. The social contract is the

<sup>1</sup> *Self-Government in Ancient India*, p. 3.

<sup>2</sup> See next Chapter.

<sup>3</sup> Cf. *Democracy, Its Defects and Advantages*, p. 24.

<sup>4</sup> Cf. Rousseau's *Phil. Theo. of the State*, p. 1.

pared from this standpoint, while exceptions are met with in *Kautilya*, *Kāmandaka*, *Śakra* and others. But they are theories of the state as a whole, because of the fact of their taking society and social factors into consideration, as opposed to and contrasted with the dogmas of legal and theological politics. Speculation on the state ought by all means to be founded on some sort of social theory, however vague and indistinct, in order that it may not be cut off from actual moorings. In fact no political theory is possible, which is not at the same time a social theory in itself. This point deserves to be carefully noted as it is missed so often in Hindu politics.<sup>1</sup>

Yet it cannot be said with Professor Dunning that "the oriental Aryans never freed their politics from the theological and metaphysical environment in which it is imbedded today".<sup>2</sup> It is unfortunately too sweeping to be true. The growth of political science and concepts cannot go on apart from their background. That Hindu political thought was always passing on to the side of the secular school is sufficiently evident in ancient literature on the subject. The two schools of thought, secular and canonical, are distinct and stand separate from each other. Much mixing up of materials from both schools may be due to remote antiqueness and the loose interchange of ideas in a later time. The "postrat point of view" in politics in all important matters was not wanting in any period of Indian History.

<sup>1</sup> See A. N. Sanyal, "Theories of State & Social Order" in *Calcutta Review*, September 1926.

<sup>2</sup> *Essays on Pol. Thought*, Vol. 4, Med. Series, 1915.

<sup>3</sup> *Studies in Hindu Pol. Thought*, p. 4 B.

## TYPES OF THEORIES

## II. Nature of Kingship.

"The government, which in the usual way originated the Aryan States, was absolutely one monarchical. Conformably to their origin from the family they could hardly be expected to be otherwise".<sup>1</sup> This important statement of Zimmer is reflected in other departments of Aryan life. P. Von Bradke has remarked in his "Dyans Asana" that even "Aryan Theology was essentially monarchical in character";<sup>2</sup> and this is certainly the main trend of Aryan political thought throughout their ancient sacred literature, as well as the later books of law. They thought little of systems other than monarchy, although there are traces of political experiment and speculation of several types in older times. Monarchy is extolled in the great Epic, the Mahābhārata, and in the stupendous book of law by Manu. The origin of Kingship is mythologically depicted in many places and so theories of monarchy may be traced stage by stage down to the practical treatment of the subject in the works of actual politicians like Kaṁḍilya and Śakra. Political thought in ancient India gave more attention to the rise of monarchy than to any other form of government,<sup>3</sup> even in the then Republican Traditions, associated with the

<sup>1</sup> *Altindisches Leben*, p. 161, "Die Regierung des in der ursprünglichen Väter geschaffenen arischen States war durchaus eine monarchische. ... Erstens ihre Ursprung war der Familie ihre auch ihre erste Form und so weiter".

<sup>2</sup> *Griewold Religion of the Rig Veda*, p. 47.

<sup>3</sup> *Veda Saṁgraha*, Ch. I, the Theory of the State.



existing republics of older days, the treatment of republican principles is very scant as well as rare. It seemed just as if a "State of Nature", in the sense of the crudest possible equality, was accepted as being prevalent among men in an unorganised state of society. It has been already seen how they theorised about the origin and nature of the state. Hence their problem—at least one side of it—was not how republican or democratic polity was established, but rather how kingship rose and developed and became the general form of government. Naturally, the great bulk of Indian political literature deals with the subject as a fact to be explained from different angles of vision.

### Theoretical Aspects

The type of thought represented below may be rightly called the Theological Theory of Politics<sup>1</sup>. In India monarchy was specifically the subject treated by the orthodox legislators, who in their own periods laid down and codified the sacred laws. Society was accepted as it was, and they showed no effort towards any new theoretical reconstruction, more than the orthodox recognition of old regulations more or less stereotyped through the ages. The Hindu theory of Kingship, in its canonical exposition, is set mostly on the same key as that of the society of the time, and it must be added that the patriarchal bias of society was stronger in those days and was applied to politics reinforced by religious ideas. The deep and abiding influence of sacred law not only affected political history to a considerable extent, but equally left its indelible impression on the speculations of secular political writers of during independence and startling originality.

<sup>1</sup> The phrase is used by Poggendorf in his *Origin of Kings*, p. 55.

(a) As early as the time of the Atharva Veda political thought began to take shape in an abstract and mystical fashion divorced from the events of practical life, which in the R̥g Vedic time were generally the immediate occasions for drawing people's attention to the affairs of the government. But the religious tendency of the age did not permit any political thought to be purely political. The extract given below shows a wonderful metaphysical grasp of the source of power that moves the universe and effluviating its religious colouring. It seems to be a significant hint at the infinite spirit working through man, whenever it is allowed to do so by man's own willingness. This is 'tapas' or fervour of the spirit manifested in the practice of austerities and partly through sacrificial rites. It can achieve all things and is the active principle of the "finite-infinite" nature of man. It is power itself capable of endless expansion. Kingship is said to be the result of this power—

"Desiring bliss at first light-finding sages—

Began religious rite and holy fervour,

Thence energy was born and might and kingship,

No to this man let gathered gods incline them" <sup>1</sup>

It has to be noted that the "tapas" mentioned here is quite different from that occurring in the Mithakhanda and the Śakra-Niti cited in connection with Political Authority.<sup>2</sup> This is an objective concept of supernatural power issuing out of the combined efforts of the sages. Personal religious merit securing high position in succeeding births is merely an exposition of the Law of Karma (work) in the chain of transmigration. This is not meant in this connection. It is like the corporate intercession of the modern time, less theistic, but more transcendental in character.

<sup>1</sup> Atharva Veda, II p. 226, Griffith's Trans.

<sup>2</sup> Chapter IV.

Though the earlier Yajur Veda and the Śatapatha Brāhmaṇa carry the R̥g Vedic idea in its most rudimentary form, without further amplification, it is never a clear-cut theory free from vagueness and haziness. Excepting the R̥g Vedic quotation in the previous section, only a bare touch of the idea is found in these two books. The statement of the R̥g Veda has been treated fully under the theory of the state, because of its reference to the several castes, which form the elements of the social structure. It is, however, only alluded to here illustratively, in conjunction with the other two statements to be considered now. In the Śatapatha Brāhmaṇa<sup>1</sup> it is said "that the Rājanya (i. e. the kingly or the ruling class) is most manifestly of Prajapati (the god of creation)". This is in reality only a specification of the R̥g Vedic notion applied particularly to kingship viz., "The Rājanya (the kingly caste) is his arms", i. e. of Divine Primordial person.<sup>2</sup> It will be seen how it is a mere speculation and not a logically developed hypothesis, for which such ancient works were perhaps too early. Professor Keth has shown that "among men the rule of the Rājanya is explained on the ground that he is the representative of Prajapati, thus being entitled, 'though one to rule over many'. It is however dubious whether this should be regarded as precisely a doctrine of the divine origin of kingship in any specific sense.....The ceremony of the Rājasiya hints at recollections of an elective kingship by the consent of the people".<sup>3</sup>

Another similar thought occurs in the Yajur Veda, though it is slightly different in application. The king is there identified with Prajapati (the god of creation)

<sup>1</sup> V, 15-16.

<sup>2</sup> R̥g Veda, I, p. 93.

<sup>3</sup> Religion and Philosophy of the Veda and the Upanishads, II, p. 461.

temporarily during the time of sacrifices,<sup>1</sup> that is, the king holding the sacrificial rite functions like the god of creation, Prajapati. Dr. N. N. Law remarks in his 'Aspects of Ancient Indian Polity'—"In the Sama sacrifices dealt with in the Yajur Veda and its Brahmanas, he (the king) as the sacrificer becomes identified with Prajapati (the god of creation) *prastapoti*". It is to be observed that nowhere in the Vedas is kingship completely identified with divinity, but the root of the ruling class as a whole, which made government possible and through whom the state as a human organisation found an articulate and stable expression, is traced to the divine.<sup>2</sup> An element of the divine is the cause of the class of men needed for ruling and governing and they are the translation into human terms of this divine element, which is after all the background of society. Government, based as it was on the ruling class, is merely a growth in a different shape out of their divine substratum.<sup>3</sup>

(b) A further development is found in Manu, the law-giver, who dissociated the idea of kingship from metaphysical concepts, but still retained for it some theological coloring, as the case is with Hindu Law in general. Manu explained the monarch as the special creation of God for the preservation of the 'peoples', i.e. society.

"In a ruler-less world people will be troubled by  
the powerful, dispersed with fear.

Hence for the protection of all the Lord  
created the king".<sup>4</sup>

Here it is clearly noticeable that an explanation is offered for the royal office and also there is some

<sup>1</sup> S.B.E., XII, p. 308-10.

<sup>2</sup> p. 188.

<sup>3</sup> Gupton, *Theory of State*, p. 3.

<sup>4</sup> *Ibid.* p. 2.

<sup>5</sup> *Manu Smriti*, VII 3.

"अल्पेन हि लोकान् संरक्षयति राज्येन  
अक्षय्येन राज्यं सर्वस्य अक्षय्यमपि प्रभवति".

trace of the contract idea occurring in the same chapter of the same book.<sup>1</sup> But Mann probably does not like to make monarchy an entirely unspiritual conception. It is fully in keeping with the spirit of Hindu legal literature. Piggie has used the phrase "the choice of God" with reference to analogous political theories in the West.<sup>2</sup> As has been seen already, Mann went deeper into the theory and made it more abstract ending in an apotheosis of the royal power represented by the royal sceptre, and reference has been made to this in connection with the origin of the state.<sup>3</sup> It is also evident that the great legislator tried to combine natural and theological sanctions for kingship.

(c) The divine element in kingship is illustrated in another way in the *Māna Smṛiti* as well as in the *Mahābhārata*. The idea represented is of the same type as the divine origin of the state. It becomes specific, inasmuch as it is applied to the individuality of the king concretely according to the several duties discharged by him. The king is said to be functionally divine thus :—

"According to time (and circumstances) the king puts on the character of the five gods—Fire, Sun, Death, Kuvera (wealth) and Varuṇa (justice) ; when he burns down with his own brilliant lustre the liar, who has deceived by means of lies, he is in the character of Fire ; when he looks into the works of the subjects through the spies and thus does them good, he is in the character of the Sun ; when he is angry and destroys the unrighteous with their sons, grandsons, relatives and friends, he is in the character of Death ; when he punishes the criminals with

<sup>1</sup> *Veśa Sūtra*, Theory of State.

<sup>2</sup> *Divine Right of Kings*, p. 47.

<sup>3</sup> *Sūtra*, Chapter I, Origin of the State.

condign punishment and rewards the innocent, he is in the character of Yama (justice); when he plagues with rich gifts those, that render help, and confiscates the wealth of those, that do harm, he is seen to be in the shape of Kasyapa, the god of wealth<sup>1</sup>.

Manu gives a different statement of the functional activities of the king as imitation of the duties of the gods. In the 8th chapter of the Manusmriti<sup>2</sup> the seven gods and the one goddess mentioned in this respect are, (1) Indra, (2) the Sun, (3) Wind, (4) Yama (5) Varaha (6) the Moon, (7) Fire, (8) the Earth. The functional similarities are shown in the following verses of which only a free translation is attempted.

" (1) "As Indra sends down rain for the crops, so the king showers favours on the good. This is imitation of Indra's character. (2) As the Sun dries water by his rays, so the king reduces tax from his kingdom.....This is imitation of the Sun's character. (3) As the Air (death) travels within the body, so the king enters into the enemy state through the spies. This is imitation of the character of the Air. (4) As Yama (death) strikes all at the proper time, so the king punishes all whether beloved or not. This is imitation of Yama's character. (5) As sinners are held in the noose of Varaha securely and in the view of all, so the king finds out the criminals until they are repressed completely. This is imitation of Varaha's character. (6) As people at the sight of the Moon, so the subjects ought to be gladdened by the king. This is imitation of the Moon's character. (7) Like fire, the king should be intolerable to the doors of misdeeds and harmful to

<sup>1</sup> See S. Paru, 55. See Manu, XVIII, 11-12. S. R. E., Vol. XXVIII pp. 217-218. He follows the *Epis* closely and is different from Manu.

the enemy. This is imitation of the character of Fire. (8) As the Earth maintains alike the high and the low, the moveable and the unmoveable, so the king ought to support all beings, rich and poor, qualified or unqualified, strong or helpless. This is imitation of the character of the Earth."<sup>1</sup>

It seems that the *Mahābhārata* only adopted in short the details of *Manu*, although no historical connection can be logically established between them. *Manu* is more exhaustive and the functional similarities are more to the point.

(d) But *Manu* in accordance with his method, abstracts it further and combines all the functional characteristics into one concept, the only difference being the addition of the cosmological idea of the eight quarters of the world. In the 7th chapter of his *Śaṅkhya*, *Manu* says that all the Protecting Deities of the eight quarters are concentrated in the king as the protector of the world.

"Indra, Wind, the Sun, Fire, Brahmā, the Moon and Kavera—from the essence concentrated of these eight protectors of the eight directions (quarters), the king is created by God".<sup>2</sup>

Here the identity of activity forms the basis of *Manu*'s theory. No other law-giver has perhaps adopted *Manu*'s conception just in this exact way. The old myth of the world being preserved by the gods from the eight directions has been used by *Manu* to symbolise the protecting capacity and character of the king.

"And since the king is formed out of the parts of these eight protecting Deities, he can subdue all beings due to the excess of might and power within himself."<sup>3</sup>

<sup>1</sup> *Manu Śaṅkhya*, IX, 804-881. See S. B. E., XXV, p. 216.

<sup>2</sup> *Ibid.*, VII, 41 of S. B. E., XXV, p. 216.

<sup>3</sup> *Ibid.*, XII, 5. Also cf. *Political Authority*, 3.

(c) Śakra following the same idea arrives at three separate conclusions. "The king" according to him "is made out of the permanent elements of eight gods."<sup>1</sup> But he explains the statement by applying it only to "the virtuous" king. Thus the king, "who is virtuous, is a part of the gods, he, who is otherwise, is a part of the demons."<sup>2</sup> The attributes of social and blood relationship are also concentrated in a good king—an idea borrowed evidently from the great Epic, the *Mahābhārata*. Of course a bad king is "an enemy of religion and oppressor of his subjects."<sup>3</sup> Each god bestows on the king his own special power. The table below illustrates the equivalences.

As a recurring part of the eight protecting gods the king has these functions :—

- (1) As Indra (the chief of the gods), he protects wealth and possessions.
- (2) As the Wind (the diffuser of seeds), he generates good and evil actions.
- (3) As the Sun (the dispeller of darkness), he establishes religion by destroying irreligion.
- (4) As Yama (the judge after death), he punishes offenders in this world.
- (5) As Fire (the all-purifying god), he purifies and enjoys gift.
- (6) As the Moon (the pleaser of all eyes), he satisfies everybody by his virtues.
- (7) As Kuvera (protecting the jewels of the universe), he preserves the treasures and possessions of the state.<sup>4</sup>

<sup>1</sup> *Sām. Nid.* I., 141.      <sup>2</sup> *Ibid.* I., 140.

<sup>3</sup> *Ibid.* I., 139.

<sup>4</sup> *Ibid.* Somadeva Śaśi mentions only three functions, viz. those of *Indra*, *Vishva* and *Mahadeva*. *Śāstrīyaśāstrīya*, pp. 336 ff.



As possessor of the attributes of the five persons necessary for the very growth of life, the king has these functions :—

- (1) As father, he educates his subjects with good qualities.
- (2) As mother, he nourishes and pardons his subjects.
- (3) As preceptor, he teaches and advises his people.
- (4) As brother, he shares the subjects wealth in taxes.
- (5) As friend, he is the confidant of his people<sup>1</sup>.

It is worth noticing in this connection that the *Mahābhāṣya* speaks of "the people as the family of the king—the king is the father of the state"<sup>2</sup> and therefore "a virtuous king is the lord of his people and a bad king is the destroyer of his subjects"<sup>3</sup>. These ideas occurring in both secular and canonical writers seem to have been prevalent for a long time, with influence on all spheres of life, social, political and religious.

### Practical Aspects

More practical conceptions of kingship occur mainly in connection with the Social Contract Theory, which was again presumably connected with the Vedic system (custom) of Election. Even if they did not actually rise out of the compact or the custom, their natures are closely similar. Doubtless the idea of a social contract, as the origin of the state, is well suited to the practical treatment of the rise of kingship and its analysis in the Elective, the Wage, and the Trust Theories, according to which kingship enters politics as an essentially practical institution. The three types of theories were probably appealed to by revolutionaries of ancient India for

<sup>1</sup> *Sūtra* III.1.140 B, *Sansk. Pāṇini* 170

<sup>2</sup> *Sansk. Pāṇini*, II.

<sup>3</sup> *Part II—Also vide* *Doctrine of Resistance and Revolution and the Theory of Civilisation—Nature of the State.*

correcting, chastising and deposing kings, when circumstances made this unavoidably necessary.<sup>3</sup> Backed up by the old practice of the election of kings popular claims, though not popular rights explicitly recognised as such, may be easily imagined to have been advanced to justify all extra-ordinary political procedure. These would naturally fall under the subject of Popular Authority. Examples of such practices are available in ancient mythological and actual histories together with their theoretic explanations.<sup>4</sup>

(a) The *Shastric System* appears, from the Rig Veda and the Atharva Veda, imbedded in one of the earliest customs of Indo-Aryans, viz. of choosing their kings. They might have developed it in some very remote pre-historic past, but nothing can be said definitely as to its source. Maine traces it back to the "Patriarchal Election" of almost pre-historic time and the system generally might have risen from it. He says "the whole process I will describe as the transmission of the patriarch into the chief".<sup>5</sup> The Indo-Aryan Elective System is admitted and accepted by great authorities and scholars—Zährner,<sup>6</sup> Bloomfield,<sup>7</sup> Goldner,<sup>8</sup> Weber,<sup>9</sup> Macdonell, Keith,<sup>10</sup> and Majumdar.<sup>11</sup> No definite political principles are observed which led to such elections in the political life of the time, yet zeal and competition were prominent factors radiating interest as well as concern on the part of the people. The earliest reference is in the Rig Veda and it is as follows:—

"Like subjects choosing a king, they anointed with Ghee,  
Fed from Vrirah".<sup>12</sup>

<sup>3</sup> Yule India, *Doctrines of Recurrence and Recollation*.

<sup>4</sup> See Yule, *Notes on Elections*.

<sup>5</sup> *Maximilien Lohr*, p. 302.

<sup>6</sup> *Veitische Studien*, II, p. 309.

<sup>7</sup> *Yule India*, II, p. 311.

<sup>8</sup> *Rig Veda*, II, 124, 8.

<sup>9</sup> *Early Hist. of Ind.*, p. 119.

<sup>10</sup> *Atharva Veda*, p. 119.

<sup>11</sup> *Indische Studien*, XVII, p. 182.

<sup>12</sup> *Corp. Act. in Sans. Ind.*, p. 37.

Read with another verse—"Like men in rivalry assesting princes",<sup>1</sup>—the word 'fear' above is easily understood to be that of the defeated party. Further details of such political competition have been given in the chapter on Popular Authority, where the power of election and deposition residing in the people is seen through this system. Free choice was evidently one of the prevailing privileges of the then social condition, and it was presumably quite general. It is observed in the sacrificial rites, when certain gods were invoked and certain priests were engaged according to the demand of the occasion. For instance Agni (god of fire) is said to be "elected" by the Brâhmanas<sup>2</sup> and the priest is also spoken of as being "elected" for the religious purpose.<sup>3</sup> The sense in both these cases is clearly invocation and appointment within the circumstances. Election is the political side of this right of choice in all human affairs. Its growth is interesting history. It laid its own conditions regarding the qualifications of candidates and the tenure of office.<sup>4</sup> Thus "kings were elected even for life or for one generation or a few generations".<sup>5</sup>

"(b) The Wage Idea is found not only in the Mahâbhârata and Ancient Law, but also in the more modern political works of Kâmandaka and Śakra, the spirit of the thought remaining unchanged. The king is regarded as one, who does his duty for the pay received by him. His obligations, therefore, are to the people, i.e. the tax-payers, just as in ordinary business relations, and indeed a few words used in the texts in this connection do not at all point to the dignity of position and pomp associated with

<sup>1</sup> Rig Veda, I 133 15, p. 246.

<sup>2</sup> Atharva Veda I, p. 46.

<sup>3</sup> Rig Veda, I, p. 246.

<sup>4</sup> Cf. LaFé's article in Modern Review, Feb. 1895 infra. Note 2 on Election in the Appendix.      <sup>5</sup> Ibid.

kinship. A clear idea suggests itself on reading the texts that the king is paid and maintained by the people for (a) protecting the people, (b) administering the state, (c) and doing his duties towards his subjects. It seems that the wage idea became prevalent in conjunction with economic affairs and was in favour with the canonical legislators, mainly to safeguard the power of the people to some extent. Its relation to the social contract theory is consequently a matter of easy surmise.

The Mahābhārata says in reference to the social compact with Manu the first king—"We shall give you fines, forfeitures and taxes as wages, and they shall constitute your revenue".<sup>1</sup> Manu, the legislator, is most explicit in asserting in the usual legal fashion that "the king, who receives remuneration from the people, is grieved upon (as the state part) is bound to fulfil his obligations towards the people (for avoiding the same proportion of sin)".<sup>2</sup> Haridāyana enjoins—"Let the king protect his subjects receiving as his pay a sixth part of their income (on spiritual merit)".<sup>3</sup> Kautilya confirms the Mahābhārata and the Canonical standard by repeating that "They made Manu their king to whom they gave one-sixth of the profits, one-twelfth of the merchandise, saying this is the tax payable to him who protects us," and "As kings are remunerated by the people, it is their duty to look to the interests of the state."<sup>4</sup> Śukra states as the result of the general tendency of the ages that "the ruler getting his revenue as remuneration, his sovereignty is only for protection".<sup>5</sup> The ideas are similar in principle and need no amplification. Śukra is so radical, that he does not hesitate to compare the king

<sup>1</sup> *Śāstrī* *Pravā*, 61, 70.

<sup>2</sup> *Mānu Smṛiti*, VIII, 328; Also see Chap. XIII on Taxation.

<sup>3</sup> *Brhadāraṇyaka* 1: 10 (See E. B. H., Vol. XVI, p. 179).

<sup>4</sup> *Artha Śāstra*, pp. 47, 56.

<sup>5</sup> *Śukra Smṛ.*, I, 775.

to a thief, a dog, and an ox, on occasion demands, and in the Mahābhārata too, the quality of the king determines his appellation and type<sup>1</sup>. This hold on the ruler was certainly one rising out of the fact of the payment made to him for his services, that is a simple business relation resting on economic grounds.

(2) The Trust Idea, while it appears to be mainly economic in its bearing, has also great political significance. In the Mahābhārata the king is called "Vittarakṣā", i. e. the keeper or the preserver of wealth.<sup>2</sup> Mr. M. Lal, in the Modern Review, January, 1920, explains the word by the phrase "National Trustee to whom the realm has been entrusted." Hence according to the Mahābhārata, if the object of trust is not carried out, "The trustee is to be shunned like a leaky ship."<sup>3</sup> The principle of trust plays a very important part with reference to wealth and its use in Hindu economic ideas, all wealth being regarded as the object held in trust and therefore to be used for the highest ends.<sup>4</sup> The common-wealth is only a larger and deeper idea rising out of wealth as a generic term. The spirit of this beautiful passage from the Śatapatha Brāhmaṇa was not without practical implications even for that early time.

"This is the state, thou art the ruler, the ruling lord—thou art firm and steadfast—to thee the state is given for agriculture, for well-being, for wealth, for prosperity, i. e. for the welfare of the people and the common weal."<sup>5</sup>

<sup>1</sup> Śākhā Nṛp, pp. 29, 30, 30, Anuśāsanā Parva, XI, 34; Śākhā Parva, 30-32.    <sup>2</sup> Śākhā Parva, 37, 46, Śaṅkha, Ch. III.    <sup>3</sup> Ibid.

<sup>4</sup> Manu Smṛiti, XII, 31, Śaṅkha Ch. XII on Eṣopade.

<sup>5</sup> Śatapatha Brāhmaṇa, V, 3, 1, 34. Vide Śaṅkha Ch. IX for Rājā Vṛṇa. The stress of this passage compares well with that of Millon's "Theory of Kings and Magistrates"—"The power of kings and magistrates is nothing else but what is only derivative, transferred and committed to them in trust from the people—in whom the power resides fundamentally and cannot be taken away without a violation of their birth-right." (Princ. Work of Millon, II, 11)

(d) The conceptions of wage and trust naturally combine and culminate in the direct and positive ethical idea of *Sevā* to supply the dominant element in the constitution of the research. It is more spiritual in its attitude than the social compact theory, which serves for the basis of secular and even partly of canonical politics, and was keeping with the religious nature of Hindu Law, the ideal of the greatest social trust. The service theory, when applied to politics, becomes a character, which is more social and ethical, although it might also be turned and interpreted like the extreme side of the wage theory. It is only in the Śūra Nṛi that the king is called the servant of the people and it may be due to Buddhist influence, though nothing can be said for certain. Says Śūra :—

"The ruler has been made by Brahman (God) a servant of the people ; the king should thus protect all like a servant."<sup>1</sup>

The Buddhist Āryadeva, a retired monk, called the king "Gandhārī", i. e. the servant of the state—"What regretlessness is there, O King ! who act a servant of the body, politic and who receive the death part as thou wages."<sup>2</sup> This being a fourth century record is earlier than the Śūra Nṛi and points out a prevalent and important line of thought.<sup>3</sup> It is however not prominent in the Artha Śāstra, and Manu, nor in the Mahābhārata itself, though the latter has the categorical statement that "the king is always subject to other people."<sup>4</sup>

(e) The idea of identity of the king and the people is another conception worthy of notice and is quite peculiar as well as rare in Hindu political thought. It has been pressed to its utmost implication by Kautilya. In a remark-

<sup>1</sup> Śūra Nṛi, I. 175, 176, 177. <sup>2</sup> Gandhārī, p. 421.

<sup>3</sup> Cited by H. H. Sankar, *Commentary Lectures*, Benares, 1914, p. 103, note 1. For, *Social Organization in Buddhist India*.

<sup>4</sup> *Mahābhārata*, Parva, 82.

able passage he points out "that the king is the aggregate of the people."<sup>1</sup> In other words the relation between the king and the people is one of complete identity. It can be explained roughly on the ground of the delegation of power on a representative principle. Its germinal forms may be traced in other works, where the interchange of characteristics is illustrated, based, of course, on identity of interests. Thus the idea of the interchange of qualities and reciprocity of interests seems to be the back-ground of Kautilyan identity. The reciprocity between the king and the people may be shown in many ways that support and make for the concept of identity.

This reciprocity uniting the king and the people admits of different types of elaboration gradually shading off into identity. While Kāmandaka speaks of similar identity based on mutual support in his own original fiction, he distinguishes between the "inner" and "outer" states of the king. "The inner state is said to be his own body and the outer state is the territory over which he rules . . . mutual support obtaining between these, they are considered to be identical with each other."<sup>2</sup> The *Mahābhārata* lays down that "as the king is, so are his subjects."<sup>3</sup> In the *Viśva Dharma Sūtra* the other side becomes clear, just as in the *R̥g* and some other works on politics—"The king is the sharer of the peoples' merits and sins."<sup>4</sup> Śakra connects the good and evil of this world with the king himself,<sup>5</sup> and both the *Mahābhārata* and the *Śakra Niti* advise "deserting a bad king."<sup>6</sup> Mutual good is emphasised by Kautilya—"In the happiness of the people

<sup>1</sup> *Artha Śāstra*, p. 240—"Tadrasatvāntaryakāśāntam" (S. Sastri's Text, p. 225) "Rājāyagatā prakṛte-śāntāntaryakāśāntam" (S. Sastri's Ed. p. 225.)

<sup>2</sup> *Pratīkāśa*, p. 24.

<sup>3</sup> *Śakra Parva*, 2, 23.

<sup>4</sup> *Viśva Dharma Sūtra*, III, 14 (File 2 B. E. VII, p. 36) (*Śakra Parva*, 23, 14) (N. N. Dutt's Text, p. 126). <sup>5</sup> *Śakra Niti*, IV, 3-218.

<sup>6</sup> See *Indra Chap. VI* on Renunciation and Revolution.

like his happiness; in their welfare his welfare."<sup>1</sup> Moreover "the king is the cause of the prosperity of the world, not does the sovereign flourish" in the world without subjects."<sup>2</sup> The *Mahabharata* concludes that the "king and the state uphold each other."<sup>3</sup>

(f) The *Hereditary System*, or principle, being the exact opposite of Election and its purpose, deserves some notice before the conclusion of this chapter. It is impossible to point out how and in what period it rose actually and was accepted as the principle of the law of succession, and thus became operative in the political sphere. The application of this law postulated the quality of royalty of the whole dynasty, yet traces are found in the earliest literature of India to show that it was probably prevailing side by side with the elective system. Otherwise there is no explanation for references to both. In the same works, in default of positive evidence for the cessation of the one and the beginning of the other. Maine thinks that heredity rose as election ceased to work. "The general rule is that the chief is elected with a strong preference for the eldest line."<sup>4</sup> This is said by Maine in reference to all primitive society generally without any differentiation of special characteristics. In the *Rig Veda* the simple statement is made of "increasing still with lineal succession,"<sup>5</sup> while the *Atharva Veda* declares explicitly that 'The son takes the dominion of the father, this they declare the noblest path to welfare.'<sup>6</sup> By the time of the *Epics* heredity became a fixed principle—"The goddess of the state (i. e. prosperity) follows the sons and grandsons down the following generations."<sup>7</sup>

<sup>1</sup> *Artha-Sastra*, p. 44.

<sup>2</sup> *Shukra Niti*, I, 127, 128.

<sup>3</sup> *Shukra Purva*, 112. See H. K. Dutt's *Trans.* p. 129.

<sup>4</sup> *Early History of India*, p. 117.

<sup>5</sup> *Rig Veda*, II, p. 2.

<sup>6</sup> *Atharva Veda*, I, p. 189.

<sup>7</sup> *Shukra Purva*, 72.



Manu enjoins in his own legal strain that the "kingdom should be made over to the son", when the reigning king wishes to retire to a private life for religious purposes according to the rules of the caste.<sup>1</sup> Of the secular politicians Kautilya and Śakra are to be marked specially on this point. Kautilya accepts the principle as it is, without any criticism of his own and it is quite in keeping with his politics in general.<sup>2</sup> Śakra, while he definitely leans towards the royal family and dynasty, e.g., in his advice on the selection of a ruler competent and suitable, in the case of deposing any king of despotic nature,<sup>3</sup> adroitly points out that—"It is not birth that makes a king."<sup>4</sup> He emphasises good qualities and real merit, and this may be due to his social radicalism.<sup>5</sup>

It is to be noted that succession to the throne depended upon the consent (i. e., indirect selection) of the people, although succession in itself remained within the royal family. This is illustrated in the stories of the Epon, the Rāmāyana and the Mahābhārata. For instance, Rāma's succession as crown-prince had to be ratified by the people. Similar examples are also to be found in the Māhābhārata.<sup>6</sup> Rāma's case is famous owing to subsequent history.<sup>7</sup>

<sup>1</sup> *Manu Smṛiti*, IX, 375.      <sup>2</sup> *Artha Śāstra*, p. 61.

<sup>3</sup> *Śakya Nip.*, p. 100.      <sup>4</sup> *Ibid.*, p. 104.

<sup>5</sup> See *Positive Basis-Ground of Hindu Sociology*, p. 58 ff.

<sup>6</sup> See Appendix, Note 5 on Epon.      <sup>7</sup> *Ibid.*

## CHAPTER III

### POLITICAL AUTHORITY

#### 1. Anti-Popular : Orthodox.

The problem of political authority, or that moral sanction, by which the State can, through its head or its agents, hold and exercise control over persons and property, pressed itself quite early on the attention of Hindu political thinkers. Its clear issues are seen in connection with the various theories of Kingship and of the State. It rose suddenly as a sharp and clear-cut question, but natural enough under the circumstances of their normal polity, viz., monarchy. Nonetheless their prevalent democratic ideas, however rudimentary they might have been, included parts of the same uneasy question of authority though in a less prominent manner. It might be said that it was implied dimly and vaguely in their thought, when no systematic political science was available in those by-gone days. It is highly significant that these persistent questionings came up and were recorded as such, showing as they do even now, that the ultimate basis of authority in its metaphysical or moral import, was not unsought nor neglected, but forced itself up to the surface by a natural and logical necessity. Its other phase is political obligation, which also engaged the attention of the early thinkers and was treated rather in a dogmatic fashion, following the problem of authority itself. In fact both are reciprocally connected and their natures also vary, according to the treatment they are subjected to, between the two poles of monarchical and democratic absolutism.

## The Problem in the Brahmana Period.

The questions bearing on the subject-matter of this chapter are found in two different ages, far apart from each other in historical as well as cultural level, and these formed in short the very core of the problem as perceived in those times. One occurs in the Śatapatha Brāhmana<sup>1</sup> of the post-Vedic period, and the problem is put in the usual language of the great rite of the Rājasthiya, or the Royal Sacrifice, alluded to in the chapter on the Origin of the State.<sup>2</sup>

(a) "And as to why a Rājanya shoots (before ascending the throne)... while being one he rules over many."<sup>3</sup>

This is undoubtedly a remarkable interrogation at this period of Hindu political development, in as much as no other special variation emerged as yet for political purposes, to yield alternative views of political problems. The answer, which is given and is under review below, inculcates a definite doctrine, that is, in the words of Dr. Ghosal, "the corner-stone of the theories of Kingship in later canonical works".<sup>4</sup> And this was at a time when the ancient Hindus knew how to elect their kings and whom to select for the office according to suitable qualities. They surely felt the urge of an inarticulate social purpose, which was not then reasonably formulated in technical language in the shape of a theory, but it was there and they had to explain it.

## The Problems in the Epic Period.

The second memorable question, not dissimilar to the first and more or less anticipated by it, shows at least,

<sup>1</sup> C. 1000 B. C.

<sup>2</sup> Vide Ch. I.

<sup>3</sup> S. B. E., Vol. XII, p. 25. Vide Weber's Ed., London, 1885.

<sup>4</sup> Hist. of Hindu Pol. Theories, p. 22.

without proving fully and conclusively, that the explanation was not completely satisfactory and the doctrine itself did not succeed eventually to quiet down the mental enquiry into the meaning of political authority. The second interrogation thus arises after a lapse of centuries in the Epic age<sup>1</sup>, when Yodhishtira asks Bhishma, the the royal sage in the Mahābhārata, almost the identical question:

(b) How did the title of king come into being and why does one man rule over many persons of great intelligence and valour, although he has the same physical organs and mental attributes, similar flesh, blood and bones, is subject to the same changes of birth and death and is equal in all respects to the others?<sup>2</sup>

It is in fact a reiteration only of the first enquiry expanded in greater detail with the advance of thought and experience: otherwise the difference is slight. Its democratic note is also significant, in its pointing out the intrinsic worth of human qualities rather than of any other circumstance. In the first case the enquiry comes up in connection with the Royal Sacrifice of Rājāsūya, where emphasis on royalty is naturally expected in the explanation, while in the second it is the question of the able king, noted for his righteousness and love for the people, put to the famous seer of the royal house, equally reputed to be one of the best and wisest men of that age. A deeper penetration can hence be observed in the latter, as also greater range and analytical insight. Indian political history by this time taught the ruling authorities the ups and downs in the life of great monarchies and states, and lessons of good and bad government under varying circumstances.

<sup>1</sup> G. 100 B. C.

<sup>2</sup> Śaiva Purāṇ 59; See M. K. Dutt's Trans., p. 82.

A minor question occurring in the same context as the question (b) above, is worthy of notice here, though it is of the type of the Platonic myths and has no independent importance of its own. Long before the query attributed to Yudhishthira, the gods had raised the point before Visnu and put to him practically the same question. Hence both are identical in the sense that they are meant to meet the same problem. Yudhishthira has only repeated it in a more elaborate form. It is said that after the creation of the exhaustive science of polity by the creator (Brahmā), the gods turned to Visnu, their chief, and conjunctly asked him very politely—

(c) "Now order, please, who is to be the greatest of men".<sup>1</sup>

The reference is presumably to one, who would be strong enough to administer the science of politics, as it has already been remarked. Else there is little political significance in the passage itself. It is explained to be a mere variation of the doctrine of Original Authority and has also been touched under the theory of the State. It seems that two separate states of thought are connected and combined into one whole. The passage (c) contains a much simpler idea than the passage (b) and is evidently earlier, so as to be utilised with the latter.

An interesting side-light is thrown on the problem by the analysis, ascribed by the story to Yudhishthira, of popular and state authorities. He saw that there was definite and equal power, if not more, in the hands of the people and he put the question thus—

(d) "The king and the people have equal power and qualities; therefore, how can one person from among them possibly gain ascendancy?"<sup>2</sup>

<sup>1</sup> Śaṅk. Pura. 59.

<sup>2</sup> Śaṅk. 59.

It is probably a hint at the balance of power, between the royal and the popular parties, that keeps the State going and the king in his position, somewhat like a middleman in business. But it may not be safe to interpret it in this way, since it may equally point to the remnant of the old ideas of primitive tribal kingship.

### The Solutions

The particular Solutions of these two problems of the post Vedic and Epic ages were given by the Sages as direct answers. The Śatapatha Brāhmaṇa has said that 'the Rājanya (the ruling class) is, of Prajāpati'. . . hence 'he rules over many'<sup>1</sup>. The question and the answer of course occur together. The interpretation of the word 'of' creates some difficulty, as it may easily be taken either in the representative or in the partitive sense. Heggeling has translated the portion in the S.B.R. Series as 'most manifestly of Prajāpati'<sup>2</sup>, but Dr. Ghoseal has put it as 'the visible representative of Prajāpati.'<sup>3</sup> It is doubtful whether the representative idea was understood at all at that early stage, and Dr. Ghoseal's translation may be just a little advanced. In any case the meaning is quite clear, viz., that authority ultimately issues out of Prajāpati, the lord of creation, and resides in the ruler, who is a part of the god and thus represents him in the world. He may be, therefore, directly divine in sharing the god's nature, or representatively divine in carrying out the god's function.

The Taittiriya Saṁhitā, which belongs to the Brahmanic Literature of the age, has made a peculiar

<sup>1</sup> S.B.R. Vol. XL, p. 25.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Hist. of Hindu Pol. Thos.*, p. 22.

contribution towards the effort at solution. It represents a different kind of thought and has looked at the problem from a different angle. It does not concern itself so much with the explanation of sanctions, as with the means to attain to the position of authority, which lies in the rite or sacrifice performed by kings. It is the rite itself, as a mysterious power, which deifies the monarch by identifying him with one of the gods of the pantheon, that gives him the usually desired position and authority—"So him becoming (the god) Indra, his fellows recognise as superior; he becomes the best of his fellows".<sup>1</sup> This is supposed to be the general result of sacrifice performed by any person. The Śatapatha Brāhmaṇa has quite a number of passages supporting specific identification of the king with any one or other of their several gods. The subject is naturally connected with the "Divine Right of Kings,"<sup>2</sup> which needs treatment at length.

The Mahābhārata seems to follow the trend of this doctrine, but substitutes a different story to account for authority vested in the ruler. It came both in substance and method very near the social contract theory, but did not merge in it. It saw the need for moral and social standards, but failed to find out the way to enforce them. The account in the Mahābhārata, therefore, prescribed "Dāṇḍa-Nīti", the science of polity, as one of the factors in its answer. The operation of dāṇḍa-nīti needed an agent. So 'the great god (Brahmā) created by a fiat of his will a son out of his lustre', who afterwards 'treated his authority as a trust (ayudha)'.<sup>3</sup> The great Epic thus agrees with the Śatapatha Brāhmaṇa in tracing authority back to a divine

<sup>1</sup> II. 2. 11. 5, 18 O. S. Vol. XVII, p. 169 See the Calcutta Ed.

<sup>2</sup> See Ch. VII.

<sup>3</sup> Śānti Parva, 27. This has already been treated in Chapter I on the Theories of the State. Also see Ch. II, above.

source, but incidentally casts some light on its popular and moral nature in making it a trust for which the ruler is held responsible. Further, it is stated subsequently with reference to a later king Pritha, who consolidated his rule, which baffled his ancestor (the Indre-born son of the great god) in the early unsettled conditions, that the reason behind his unprecedented success was that :—

"The eternal god Vishnu established Pritha saying none shall be able to transgress you. Men bow down before the king considering him godlike, because at that time the mighty soul (i. e. the god Vishnu) entered into the king's person by means of super-natural power".<sup>1</sup>

This explanation is also dovetailed with the main portion of the story, just as the question of the gods was introduced in the shape of a preliminary, for expounding the same aspect of the theory.

Another explanation of a quite different nature, perhaps from a different source belonging to a different system of thought, is furnished by the Mithābhāṣa in answering the very same question. Certainly the closing part of the following extract will show that though superficially disconnected it is intended to be a supplementary reply :—

"On account of their merits wearing away the inhabitants of heaven descend to the earth in pairs of the god Vishnu, as kings versed in the science of punishment. For this reason kings are intelligent and possessed of glory. Men obey the commands of the kings, though of similar limbs, heads and feet, due to the (religious) merits of their former birth".<sup>2</sup>

Here the theory of transmigration and Karma has been the substratum of the whole idea. It is a dogmatic religious

<sup>1</sup> Śaṅkha Parva, 53.

<sup>2</sup> Ibid. 53.



doctrine, that has been introduced into politics to justify and intensify royal authority, viz. that good work gives good position as the result. Nārada in his *Dharmaśāstra* categorically asserts the same principle—"subjects are purchased by the king's austerity", of course of a former birth.<sup>1</sup> The Brahminical bias is naturally prominent in Nārada, as in the other canonical writers of the orthodox school. But even a practical and heterodox thinker like Śūkra has been drawn into this type of thought, perhaps owing to the popularity and easy application of the doctrine of karma to account for all differences in the world. According to Śūkra "Sovereignty (*Svalaitvān*—mastery) is the fruit of austerities",<sup>2</sup> and "the king acquires supernatural lustre (*tapas*—burning power) by means of his austerities".<sup>3</sup> The word "*tapas*", in all cases translated as austerity, signifies that it is the cause of certain good results which follow its practice. Professor B. K. Sarker has translated the two verses as—"The king is the ruler, protector and benefactor of the people and he acquires his strength by penance. And he is the lord of this earth, because of his deeds in the previous births as well as of penances".<sup>4</sup>

The Machiavellian explanation of question (d) is not worth consideration from the stand-point of political philosophy. It is not deep, but only clever. It may be dismissed here simply by quoting Bhīṣma's "viceroy-like" statement in reply—

"Oṃ vra ! The king being of the same capacity as the subjects, he has to save himself and his superior position by means of (cunning) policy".<sup>5</sup>

It seems to be intended more for the upkeep of the position of kingship already attained. It does not really explain

<sup>1</sup> Quoted by Dr. Ghosal from *Mitrasaṁhitā*, *Hit of Hit* Vol. Three, p. 32.

<sup>2</sup> Śūkra : *Mān*, 1. 40.

<sup>3</sup> *Ibid*, 1. p. 43.

<sup>4</sup> Sarker : *Śūkra Kṛm.* p. 2.

<sup>5</sup> *Śloka Parva*, 58.

the authority that is behind *ṛāja*.<sup>1</sup> Hinduism's comparisons and contrasts are remarkable. He juxtaposed in this connection "a water-eating python" and "a small turtle", though both are snakes after all, in order to show the relation between the people, (a la Hobbes' "Leviathan"),<sup>2</sup> and the king. That the royal position needs the deepest and the most successful policy is fully illustrated by the experience applied to the king by Kautilya and Śakra. The former has named him "the fountain of policy" and "the central pivot",<sup>3</sup> and he is the "root of the state" according to the latter.<sup>4</sup> Kāṇḍakā, who closely followed the *Arthashastra* of Kautilya, shows the importance of "policy" on the part of the monarch for securing for himself the paramount position. It is the *sine qua non* of sovereignty in the estimate of the Secular School of Indian Political Science. He has in reality dilated on the master Kautilya is observing, though in a different context, that all this is "by his (the king's) superior policy and state-craft, which, by the proper manipulation of the various political forces, can easily render his own position invincible, supreme and paramount".<sup>5</sup> In a general way the significance of the royal throne, whence the political forces radiated, was foreshadowed in the early Vedic literature. The *Atharva Veda* felicitously spoke of the throne as "the highest point in the body-politic",<sup>6</sup> which of course required the greatest care to be safe-guarded.

A further analysis of the concept, imbedded in the theories of the state, will elucidate the different ways and methods by which state authority was sought to be

<sup>1</sup> Cf. "The king is the aggregate of the people" in the *ṛ* "The culture of Kautilya", Ch. II.

<sup>2</sup> *Artha Śāstra*, pp. 312-313.

<sup>3</sup> *Śakra Smṛti*, p. 102.

<sup>4</sup> *Jñāna Śāstra*, VIII. 20. Also cf. Kautilya, *Arthashastra*, VI. 2. 12, p. 102.

<sup>5</sup> *Atharva Veda*, III. 1. 4-5. Vide R. K. Mather's *Pratimānand Upaniṣad*, of India, p. 78.

explained and supported. In other words, all the speculations found in the last two chapters are answers to this one point raised, viz., state authority or royal power. All other conceptions to be considered in this connection are but variant modifications of the above views of authority and sanction. A survey of the whole field of Hindu political thought is needed in order to separate and classify the types of sanctions formulated along their basic ideas. The subject sub-divides itself into three sections in accordance with the nature of such authority, viz. (a) Original (i. e. direct), (b) Functional (i. e. official) and (c) Representative (i. e. delegated). Of these, the first two concepts with their branches rise out of the ascription of divine attributes to the king, and the third one is a class by itself issuing strictly from the popular social contract theory and therefore stands separately. The second concept stands between the two extremes, mediating two opposite ideas, with its two consequently characteristic tendencies to permanent and temporary nature of activity. The divine right of kings is the natural consequence of the first two ideas intensified to the utmost, while all revolutionary tendencies directly or indirectly owe their origin to the third. The ideal of authority in all cases has its limitations and boundaries, that can be properly defined under the relations obtaining between kings and subjects, including organisations of the people, such as guilds and corporations.<sup>1</sup>

### Sub-Divisions

(a) Original, or direct, authority has been seen to issue out of king's participation in the divine nature of any one of the gods. The instances quoted show that the king partakes of the divine nature of Prajāpati or Brahma, the

<sup>1</sup> See Ch. XV, on Group Life.

god of creation, and therefore it is expected that he has obedience from the people, it being tacitly assumed that they obey the gods. The element of lustre is definitely to be the source of the king and he shines in reflected light. Another variation of this theory is the legend that Vishnu, the god of preservation, entered into the first real king, Prithu, in order to establish him authoritatively, as different from one that is nominal, in the sense of being never closely connected with the people and the government, as the previous rulers were unfortunately. Here too the power comes from without. The special creation of the king by the will of the creator occurs in *Mānu*<sup>1</sup> and apart from any legendary colouring signifies consequent authority and position. It has already been reviewed as one of the many theories of kingship.<sup>2</sup> All these doctrines are identical in their underlying principle, which tries to prove in every case that ultimate authority is of God, who is the fountain of all authority and power.

(c) Functional, or official, authority has clearly two sides—one leaning towards "direct" authority and is partly indistinguishable from it, and the other making it reside in the actions of the king or the duties performed by the king from time to time. When it is stated that "the king is made out of the particles or essences of the eight guardian-devitas, it is in no way different from the original authority by participation."<sup>3</sup> Only it becomes more intelligible, in as much as the work of guardianship is common to both cases and is more to the point from the similarity of duties performed. But the other side, which is undoubtedly supplementary, lays down the assumption of special functions at special times according to specific needs. Hence all the eight functions spoken of as parallel

<sup>1</sup> VII, 4.      <sup>2</sup> See Rogers, Ch. II, on the Theories of Kingship.

<sup>3</sup> *Sāma Samhita*, 20, 68; *Mānu*, VII, 3; *Śatko Nāl*, p. 22; Vide Rogers Ch. II, Theories of Kingship.

to those of the guardian gods, are understood to be never in abeyance, when one of them is operating. These are roughly the duties of (1) protection (2) administration (3) advancement of religion (4) punishment (5) receiving gifts, taxes etc. (6) maintenance (7) pleasing the people (8) and the upkeep of the state. It is *prima facie* an effort at reaching the details of the authority of which the king is the vehicle for operation, after describing the combined contributions of the gods to the make of kingship, each giving his own special quality. Each one of the royal functions is thus backed up by authority traced to particular gods. It seems to be only a sort of make-shift explanation, which does not advance the argument beyond a few crudely analysed details. Otherwise when taken as a whole, it coincides in every respect with the Vedic idea of authority and its source. That it was once much in vogue is corroborated by its presence alike in the three kinds of literature, Epic, Legal and Political, even of different periods.

(c) Canonical Representative authority, in its faintest yet dogmatic form, is seen only in Manu's Sacred Law.<sup>1</sup> It occurs in a stray passage in no way connected with the main drift of the chapter on kings and their duties. "The king" is said to be "the guarantor (i. e., representative) of dharma" (righteousness) by implication, i. e. as standing for dharma. There is no certainty as to whether the word "dharma" means righteousness in the abstract, which would be like the Platonic idea of the Good comprising all virtues, or the dreaded god of the same name, who dispenses rewards and punishments in after-life. However, the representative idea is quite clear in the sense, that authority is deputed for the purpose of having divine god-like justice done in the world, and the moral order

<sup>1</sup> VII, 27—a god—"protector".

preserved from decay in one part, at least, of the universe. Perhaps this idea is faintly reflected in the *Epic*, where the king is called "dharma (righteousness) personified",<sup>1</sup> but it is also partially obscured in being used for *Dharma*, the god. Even *Mama* is not free from the esthetic, canonical and sacerdotal bias, which is natural in him as a law-giver, and hence his suggestive idea here fails to rise to the level of a political theory, which admitted great elaboration. It is not possible to ascertain, if *Mama* liked the social contract in the Buddhist account, or in the *Mikishikuta*, except perhaps the mere tradition connected with the famous phrase "the logic of the fist",<sup>2</sup> so as to utilise the purely political application of it in his treatment of kingship. His idea of authority is also of the other two types, when it is thoroughly analysed, being derived from an ultimate moral and religious source, in spite of the prevailing representative idea, which indicates a fresh line of thought.

Political authority of the orthodox school all along assumed a back-ground, which was divine and which transferred its character to the agent, who was called upon to wield such authority. It is evident that many of the ideas were crudely figurative and failed to rise to a philosophic height, yet they all unmistakably point to a definite line of philosophic interpretation and this is ultimately theocratic. This divine or theocratic character of all authority and sanction, moral, social or political, was evident in ancient thought, else it could not command a binding force or compelling reverence.<sup>3</sup>

The Hindu political thinkers had to face exactly this task of making the people accept the authority of the state

<sup>1</sup> *Shāli Purāṇ*, 10.

<sup>2</sup> *Yala Sūtra*, Ch. 1, Theory of State, and Note 1 in the Appendix.

<sup>3</sup> Cf. C. C. J. Webb: *Collected Lectures*, Part II, Divine Personality and Human Life, p. 143.

by appealing to their religious sentiments, which would easily and naturally (and mostly by an intuition, so to speak) trace it back to the invisible ruler of the universe. Their moral instinct forced them to resolve political authority into a quasi-religious sanction, and perhaps this is on the whole true of humanity in the early times.<sup>1</sup>

<sup>1</sup> Cf. Deen Jago, *Outspoken Essays*, II Series, pp. 68, 73.—“In the history of civilization democracy has held and may still hold again a very important place. It is one of the forces in which the Terrible State has recruited practical acknowledgment to learning considerations. . . . It is the work of all political science now to place the force in the hands which will not misuse it. . . . But under democracy there is not material power to fall back upon / the authority is spiritual and transient.”

## POLITICAL AUTHORITY

## II. Popular : Representative

## Vedic Age

That the foundation of political authority rests on the people and their voice was realised by the Aryan thinkers in an age, when religious thoughts mostly occupied the field. Perhaps they saw it from their social needs, which, impelled by the force of circumstances, gradually rose to a purely political plane. A democratic tone is noticeable at this time, but nothing which comes to the level of self-conscious direction, that characterises modern politics.

Vedic politics was roughly democratic in practice in all matters of the state without being backed up by any definite democratic theory.<sup>1</sup> In Zimmer's opinion it was "limited everywhere by the will of the people. This followed naturally in the Elective Monarchies as a matter of course".<sup>2</sup> The voice of the people was powerful and effective in those days, as much as could be expected in partially primitive conditions of society. They were yet remarkably conscious of the powers of the common mind and common purpose, and the intrinsic importance of the common assembly. Unity and agreement were the criteria of political efficiency, which gave effect to their corporate authority. Many utterances in the Rig Veda and in the later Atharva Veda are striking evidences of the relatively high political thinking of the simple people of the early

<sup>1</sup> Cf. Meier, *Ancient Law*, p. 11.

<sup>2</sup> *Altindisches Leben*, p. 172.—"Boden überall durch den Willen des Volkes beschrankt".



Vedic times. Dr. Keith says :—"The power of the king could not have been in normal circumstances arbitrary or (ever) probably very great. There stood beside him, as the mode of expression of the will of the people, the assembly which is denoted by the terms *Samiti* and *Sabha*",<sup>1</sup> i. e. the popular assembly of the tribe and the assembly of the village according to Zimmer.<sup>2</sup> Although no trace of the Social Contract theory is found in Vedic Literature as a whole, yet a tacit consent of the people played an important part. This consent is illustrated in the the custom of the election of their kings through popular selection and agreement, and the good-will of the people in such cases is a factor indicating the seat of political authority.

### Authority in General

In a general and inarticulate way the popular basis of the power of the state has been pointed out in the passages given below :—

- (a) "Indra and Agni, all the gods have maintained for thee security (*bhama*) in people".<sup>3</sup>
- (b) "Let women and their sons be friendly minded, Then mighty one shall see abundant tribute",<sup>4</sup>
- (c) "Thou (the king and Indra) art *Bṛhannaga* .. mighty through the people" (i. e. he whose strength is in the people).<sup>5</sup>

What is implied here by the words "*bhama*" (security) and "mighty" is that the prosperity of the state formed by

<sup>1</sup> Cambridge History of India, p. 56. Also see Religion & Phil. of the Vedas & Upanishads by Keith, Vol. II, p. 481.

<sup>2</sup> Altindisches Leben, p. 172.

<sup>3</sup> Atharva Veda, III. 8 (Walters's Trans.) H. O. S. Vol. V, p. 88.

<sup>4</sup> Ibid. IV, 3—Dr. Das says "Ages to show that the value of women also counted and was an important factor in moulding public opinion. (Ibid. Vedic Culture, p. 214).

<sup>5</sup> Story of the Bṛhannaga, V. 4, 4, 11. S. B. E. 42, p. 10.

the duly elected king as well as its strength depends upon those who are responsible for inviting the king to take charge of the state and who willingly place themselves under his rule. They are in reality his security and his strength, whatever sense may be assigned to the words, whether that of financial assistance or that of military defence. "Tribute" is of course the general term for popular contribution qualified by popular pleasure.

It is also worthy of note that these three factors—security, tribute and might—are also the chief constitutions in the social contract of the Epic age, where they are treated of in detail. Indeed popular authority cannot be expressed better or more effectively under any circumstances than through the proper and legitimate control of finance and army. These are the common "Sinews of the State" in whatever community it is born, and such factors depend on the absolute condition of popular willingness and contribution, i. e. in short, consent.

The Śatapatha Brāhmanas has a general statement to the effect that "the Brāhmana (the priestly class) and the Kshātra (the ruling class) are both based on the people".<sup>1</sup> This passage is true equally in the political and the social spheres, as also in the economic field. By the time this idea emerged in its completeness and the true nature of the social structure was properly understood, the faint and indistinct germinal conception of "the logic of the fish" is observed in post-Vedic thought,<sup>2</sup> indicating theoretical as well as possible absence of Law and Order, which later on preluded the fictitious social and governmental contracts of the Buddhist and the Epic age. For it is said in the same book that "whenever there is drought, then the stronger seizes the weaker, for the waters are the Law".<sup>3</sup>

<sup>1</sup> XI. 2. 3. 16, 2. 2. 2. 48. p. 384.      <sup>2</sup> Note I in the Appendix.

<sup>3</sup> S. B. B. Vol. XLIV. p. 16. Appendix, Note I.

## Authority in Election

Popular authority, in articulated choice and consent, giving rise to and supplying foundation for representative authority, is explicit in the custom of the Election of Kings. The back-ground for such an institution is clearly the judgments of common interest, in some shape or other, e.g. leadership for defence and war. The pattern is to be found in the *Altareya Brāhmana*, though stray references are abundant in the *Rig* and the *Atharva Vedas*. In the last of the *Vedas* the benedictions on the king were like probable "resolutions" as the following :—

- (a) "Thou let the people choose unto kingship, and the five celestial regions elect thee".
- (b) "The goddesses of welfare, who assume various forms and are present in all places, all assembling have made thy path clear. Let all in concord call thee hither, live they ten thousand years a strong kind ruler".<sup>1</sup>

But it is in the *Altareya Brāhmana* that the need for a king, a leader and guardian protecting and defending the people, is made explicit. It gives a picture of election in heaven of the National gods, *Indra* and *Soma*. Their religious bias made it necessary for even gods to have their kings, presupposing a communal life and social and political needs among the immortals. The extracts quoted below are like transferred pictures of their own experiences and circumstances. The gods consulted with one another —

- (a) With reference to *Indra's* election to kingship—  
"This one is among the gods most vigorous, the

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<sup>1</sup> *Atharva Veda*, III, 2 & 7. (Ch. Rāh's Trans.)

most strong, the most valiant, the most perfect, who carries out best any work to be done. Let us instal him to the kingship".<sup>1</sup>

- (b) With reference to Soma's election to kingship—  
"It is because we have no king, that they (the demons) are defeating us; let us elect a king."<sup>2</sup>

Thus it is the common good of the community that materialises itself into the shape of Kingship, as a political institution, and transfers its own authority to the political head, who stands for the good of all. It is evident as well that "consent" is clearly pointed out in the text, in the closing remark—"After this (consultation) they consented to the Mahāvisheka, i. e. the royal consecration ceremony". Its importance lies in the fact that only elected and accepted candidates can be thus religiously treated (anointed) for and in the name of the whole people and the country.

The immemorial<sup>3</sup> and unalterable customs of Vedic election may safely be said to be the early nucleus of popular authority, around which the later popular theories developed by way of further elaboration.<sup>4</sup> It is sufficient to notice in passing that the governmental contract of the Buddhist literature and the social contract of the Epic—each distinctively peculiar to the two systems of thought—seem to have started from the self-determination involved in choice and in the controlling power resting in the people, in allowing or rejecting an agent to represent and act for them as a whole. Such a position logically leads to the understanding, which is legally called contract, together with other corollaries naturally issuing out of such an agreement.

<sup>1</sup> *Aitareya Brahmana*, VIII. 4. 12 (Haug's Trans.)

<sup>2</sup> *Ibid.*, I, 3. 14. (Haug's Trans.)

<sup>3</sup> This will be taken up in course of the review of other theories as they fall within the scope.

## Authority in Deposition

Again, the most effective expression of popular authority is revealed in the negative process of deposing and expelling bad, unpopular, or oppressive kings. It was their high prerogative, which expressed itself in opposition to tyranny and resistance to oppression. Thus it is found that a whole hymn in the Atharva Veda is given to the restoration of such a king : restoration is as a matter of fact the operation of the same power as is used by the people in electing their rulers.

"King Varuṇa call thee hither from the waters !  
 From hills and mountains Soma call thee hither !  
 Let Indra call thee hither to these people,  
 Fly hither to these people as a falcon.  
 May the hawk bring the man, who must be summoned  
 From far away, in alien land an exile.  
 May both the Aśvins, make thy path-way easy.  
 Come and unite yourselves with him, ye kinsmen.  
 Let thy opponents call thee back,  
 Thy friends have chosen thee again.  
 Indra and Agni and all the gods,  
 Have kept thy home amid the tribes.  
 He who disputes our calling thee, be he a stranger  
or a king,  
 Drive him, O Indra, far away, and do thou bring this  
man to us".<sup>2</sup>

The four sides of this popular power illustrated in several extracts above are (a) selection and (b) rejection after Election and (c) expulsion and (d) restoration after Deposition. The right to consent and to veto is technically the authority, in the hands of the people, which acts through their assembly. Even in a later age the Mahābhārata

<sup>2</sup> Atharva Veda, III, 2. (Delisle's Trans.)

tensely pointed out how religious merit accrues from the restoration of a deposed king.<sup>1</sup> But this does not seem to be quite in keeping with the Epic spirit of revolutionary freedom revealed in the same action.

A note on traditional and historical election and deposition is given in the Appendix.

## Unity of Will and Group Process

Zimmer has observed that "the activity and co-operation of the people were carried on in meetings".<sup>2</sup> That the society of the time was roughly aware in practice and theory of what is known as the *group process* is shown by the popular political decisions just spoken of and in the abstract speculations dealt with later on. It is postulated by the combined actions of the people. The unity of wills, so necessary for group-life, was the great theme of the sages, who made important political pronouncements besides proclaiming spiritual truths. They asked the people to be of one mind for reaching great issues and to act like the gods with freedom from narrowness and prejudice. Free speech and unanimous opinions as well as unification of thought by contributing individual shares were well understood as social functions. The high development of institutional life is possible in "the common place" and "the common assembly" with the "general (religious) oblation" of the whole community. And the assembly is the external embodiment of the common mind produced through agreement and unity of purpose. A hymn on the subject gives all the elements required for real political life—

<sup>1</sup> *Arundhati Parva*, 42.

<sup>2</sup> *Atithakha Laksh*, p. 172—"Die Tätigkeit und Mitwirkung der Völker wird in Versammlungen ausgeübt".

"Assembly, speak together, let your minds be of one  
 accord,  
 As ancient gods unanimous sit down to their  
 appointed share,  
 The place is common, common the Assembly, common  
 the mind, so be their thoughts united ;  
 A common purpose do I lay before you and worship  
 with your general oblation.  
 One and the same be your resolve, and be your minds  
 of one accord,  
 United be the thoughts of all, that all may happily  
 agree."<sup>1</sup>

Professor Majumdar has observed in this context that "there can be no doubt that they took politics seriously and that society in Vedic India was characterized by a keen sense of public life and animated political activity".<sup>2</sup>

The fact of interpenetration of minds differentiates an assembly from a crowd. From this stand-point the ancients were right in building their political life on their tribal assembly. In this assembly their national life functioned as a whole. It is really creditable for an early age to arrive at such conceptions, even if regular formulation of theories was wanting. The incipient discovery of co-operative will flowing into politics was an important achievement, which cannot be over-rated. This is the "group-process", which is the stepping-stone to democratic polity.

The process of fusion is further elaborated in the Atharva Veda, where the divers aspects of unity are properly emphasised for both political and social purposes. The transmutation of several minds into one is the great

<sup>1</sup> Rig Veda, X 101, 1 & 2, p. 658 (Hodgkin's Trans.) It also occurs in the Atharva Veda, III, 6 VI 48 (Whitney's Trans.)

<sup>2</sup> *Group Life in Asia Ind.*, p. 51.

object striven for in all gatherings, large or small, even through religious occasions.

"Like-heartedness, like-mindedness, non-hostility, do I make for you, do ye show affection, the one toward the other, as the inviolable cow toward her calf when born. That incarnation is virtue of which the gods do not go apart, nor hate one another mutually, we perform in your house—concord for the men. Having superiors dutiful, be ye not divided, accomplishing together, moving on with joint labour, come hither speaking what is agreeable to one another: I make you united, like-minded. Your drinking be the same, in common your share of food, in the same harness do I join you together, like-minded I make you, of one bunch all of you, by my constitution: be like the gods defending immortality, late and early be well-wishing yours".<sup>1</sup>

The waste that follows in mental and physical energy from disjointed actions is the side-issue of the problem of co-operation. It has necessarily to be guarded against in order to make a success of corporate life.

### Corporate Authority—Samiti and Sabha

Another side of popular authority, namely its corporate character, is exposed to view by the analysis of the powers wielded by the Samiti, i. e. the Tribal (National) Assembly. This body is said to have been responsible for the election of rulers and had a constitutional character in monarchical tribes, as different from the non-monarchical or republican ones. It has been rightly distinguished from the Sabha, i. e. the Gathering for religious and social purposes, or

<sup>1</sup> Atharva Veda, III 30. [Whitney's Trans.] H. C. A. VII, p. 136.



for village affairs.<sup>1</sup> The most general right of the Assembly was that the king was expected to attend its sittings as a matter of duty, most probably for conducting state affairs in consultation with the members (the elders). This is seen in this passage in the Rig Veda<sup>2</sup>—"Like a trucking who goes to great assemblies"—where the character of the relation between the king and the people is revealed by a single touch in the use of the qualifying words "true" and "great". It was in fact a demand made on kingly office and agreement with the assembly was consequently and naturally sought for. That such agreement was considered a blessing is illustrated by the following lines :—

"One-minded true to thee be all the regions,  
Faithful to thee and firm be this assembly."<sup>3</sup>

The king also from his own side naturally tried to capture the mind of the assembly and to influence it by all means, for it was above autocratic power. Naturally, it was unity that was desired. Here is a sample :—

"I seize upon your minds, your pious observances,  
your prowess in war".<sup>4</sup>

"I with my spirit make your spirits captive ; those  
with their thoughts follow my thought and wishes. I  
make your hearts submissive to mine order ; closely  
attending go where I precede you. I have invoked  
both Heaven and Earth.....so may we thrive."<sup>5</sup>

In a significant benediction on the king, which is also a hymn addressed to the newly elected king, the corporate

<sup>1</sup> Ludwig's Translation of the Rig Veda, I, 364 ; Emerson, *Atithashas* Lohas, p. 172 ; Sops, p. 22.

<sup>2</sup> IX. 98. 4 Griffith's Trans. (See Book of Ind. Polity by Dr. B. Kumar Datta, p. 78 for a different view based on Sigras. There is no reason why an Assembly meeting should not be constitutional.)

<sup>3</sup> Atharva Veda VI. 98, 3 Griffith's Trans. Whitney has done this as—  
"Be all the quarters like-minded, concordant, let the gathering here not flee,  
who are true". (R. G. & VIL, p. 34).

<sup>4</sup> Rig Veda, X. 108. 4.      <sup>5</sup> Atharva Veda, VI. 2 Griffith's Trans.

power of election and deposition, operating through the assembly, becomes perfectly clear. Professor Barnis criticising Zimmer on this point says—"Perhaps the choice of the king by the consistory or by the princeps is what he intends to read in the Vedic Polity".<sup>1</sup> Like the Greek City States, it was not unlikely that the Vedic tribe from outside approved the succession in a body, while the priest spoke in the assembly for it and therefore for the people at large. The hymn repeats the welcome and the warning at one and the same time :—

"Be with us, I (we) have chosen thee, stand steadfast and immovable,

Let all people wish for thee, let not thy kingdom fall away.

Be even here ; fall not away ; be like a mountain unmoved.

Stand steadfast here like Indra's self and hold the kingship in thy grasp.

This man hath Indra established, made secure by strong oblation's power,

May none speak a herisson, and Brahman's-path, on him.

Firm is the sky and firm the earth, and steadfast also are the hills,

Steadfast is all this living world and steadfast is this king of men.

Steadfast may Varuna, the the king, and steadfast the god Brihaspati,

Steadfast may Indra, steadfast may Agni, keep thy steadfast reign.

On constant Soma let us think with constant sacrificial gift,

<sup>1</sup> *Indo-Iranian Polity*, p. 58—(New Principles)

And then may Indra make the clans bring tribute unto thee alone."<sup>1</sup>

It is to be noted that the word "I" in the first line is spoken by the sacrificing and presiding priest on behalf of the whole assembly and is in fact equal to an editorial "We", the religious position of the priest having always the first precedence in India. This hymn also occurs in the Atharva Veda with slight variations.<sup>2</sup>

A Second hymn in the Atharva Veda corroborates the corporate right to elect the king, but the difference is that it is addressed to an already elected and then religiously consecrated king. Hence the tone is more exalted and high in glorifying the king in the most flattering and exaggerated language. It is also a blessing on the ruler newly accepted by the people and as such he is compared with the gods in their high positions in heaven and above all created things. It simply means to say, apart from metaphors, that he has been made so great by the people—at least it wishes him to be so.

"This is the lord of Indra, this is lord of heaven, the lord of earth. The lord of all existing things—the one and only lord be thou. The sea is regent of the floods, Agni is ruler of the land. The moon is regent of the stars—the one and only lord be thou. Thou art the king of Asuras (heroes) the crown and summit of mankind. Thou art the partner of the gods—the one and only lord be thou."<sup>3</sup>

No welcome nor warning is found in this hymn, but the royal position is extolled in which the accepted candidate is desired to prosper without any rival and consequent

<sup>1</sup> Rig Veda, II. 175 Griffith's Trans.—It is the priest who speaks for the people here at a general sacrifice.

<sup>2</sup> See Atharva Veda, VI-69.

<sup>3</sup> Atharva Veda, VI. 86 Griffith's Trans.

troubles. A popular wish of this type indicated corporate and responsible support.

Yet everything was not smooth and easy in the assembly for the king or for the members. Unity out of deliberation and discussion of public affairs meant party politics, rivalry and strife. Dr. R. C. Majumdar points out that "in the Samiti as well as in the Sabha party spirit ran high . . . , such as has scarcely been witnessed in India during the three thousand years that have followed the Vedic period".<sup>1</sup> He has quoted a number of passages following Bloomfield, two of which are given below :—

"May my foe by no means win the dispute . . .  
 write the dispute of my counter-disputant.  
 Make them useless, O, Herb." (Chama)  
 Do thou write the dispute of him, O, Indra,  
 who vexes us."<sup>2</sup>

Everybody wished to excel in the meetings of the assembly for they were all keenly interested in their tribal matters. Magical herbs were used and prayers offered to the gods to be superior in debate and thus carry the house with one's self in the decision of the issues from the highest available ideal. Thus—

"What villages, what forest, what assemblies are  
 upon earth, what hosts, gatherings—in them may we  
 speak what is pleasant to thee, (O, Earth)."<sup>3</sup>

The subjects discussed in the Assembly were equally important and interesting and were just those on which party divisions were natural. Dr. Shama Sastri has given a long list of these on the authority of the R̥g, the Krishna Yajur and the Atharva Vedas.<sup>4</sup> It includes national questions, such as—(1) war, (2) peace, (3) distribution of war

<sup>1</sup> Corporate Life in Ancient India, p. 48.

<sup>2</sup> Atharva Veda, II, 37. Bloomfield, p. 131.

<sup>3</sup> Whitney's Atharva Veda, p. 681. ; 'Cor. Life in Anc. India', p. 43.

<sup>4</sup> Evol. of Ind. Polity, pp. 85, 86.

spoils, (4) currency or coins, (5) taxation, (6) protection of men and cattle, and (7) trade and tolls. Minor judicial topics are indicated as—(1) land disputes, (2) recovery of debts, (3) cheating at play, (4) inheritance, (5) abduction of women, (6) cattle stealing, (7) theft, (8) assault, (9) murder. In the *sūtra* period the following topics are found, for discussion, in the king's assembly—(1) destruction of fruit trees, (2) falsification of weights and measures (3) provision for soldiers' widows, (4) exemption of Brāhmanas and widows from taxation, (5) maintenance of the poor, eunuchs, and madmen, (6) punishment for false witnesses.<sup>1</sup>

### Majesty of the Assembly

The most remarkable and important contribution of the Vedic age is the conception of the *Majesty of the Assembly*. The political consciousness of this period put on a religious and metaphysical character, when the loving devotion to the assembly, as the citadel of free National Ideal, called forth ardent popular prayers and the two assemblies themselves were personified as positive powers in the life of the community. "Be gracious, heared thus, to our assembly, to thee...be our homage, Goddess",<sup>2</sup> was the ordinary prayer of the people. A more detailed one occurs later in the same book—"O thou of the Assembly, protect my assembly and them, who are of the assembly, siters in the assembly, having much invoked thee. O Indra, may they attain their whole life-time".<sup>3</sup> In the White Yajur Veda homage is paid to the assembly, itself, probably as a mark of respect—"Homage to the assemblies and to you, presidents of the assemblies",<sup>4</sup> for the presidents were important personages. But a typical prayer, perhaps

<sup>1</sup> *Ibid.*, p. 86.      <sup>2</sup> *Atharva Veda*, I. 13. 4.      <sup>3</sup> *Ibid.* XIX. 35.

<sup>4</sup> *White Yajur Veda*, XVI. 34.

serving a special occasion and meant for the assemblies themselves, throws a flood of light on their nature and the mentality behind the utterance itself. The whole hymn is quoted below :—

"In concord may Prajāpati's two daughters,  
Assembly and Gathering, both protect me.  
May every man I most respect and aid me,  
Fair be my words, O Fathers, at the meetings,  
We know thy name, O Conferences,  
Thy name is *interchange of talk*.  
Let all the company, who join the conference,  
Agree with me.  
Of these men seated here I make  
The splendour and the lore mine own.  
Indra, make me conspicuous  
In all this gathered company.  
Whether your thoughts are turned away,  
Or bound and fastened here and there,  
We draw them hitherward again,  
Let your mind firmly rest on me"<sup>1</sup>.

It seems that the assemblies had the power of protection and great care was taken for the ways of speaking in them. In such a case it is no wonder that the assemblies were deified as the "two daughters of Prajāpati", the god of creation. A reverential attitude is also noticed in a penitential prayer. "We expiate by sacrifice each sinful act that we have committed in the village, in the wilderness and in the assembly" (*Sabha*)<sup>2</sup>. According to the commentator Mahādharma, the sinful act in the assembly would be, first, "censuring the elders" and secondly, "making sides"<sup>3</sup>. Dr. Majumdar explains them as "insuper

<sup>1</sup> *Adhvaryu Veda*, VII. 12. Griffith's Trans. & Note.

<sup>2</sup> *Tajvishayī Brahṣaṇa*, III. 48, S. XX. 17.

<sup>3</sup> Quoted in *Con. Life in Anc. Ind.* p. 80.

language used in course of debate" and "partiality in deciding disputes".<sup>1</sup> In a similar passage of the White Yajur Veda, Sūrya the sun-god is invoked for the taking away of such sins. "Each fault in the assembly, . . . that we have done . . . even of that sin, thou (Sūrya) art the expiation".<sup>2</sup> The religious genius of a people essentially religious could not possibly avoid the temptation of stamping itself on matters of practical politics. The assembly thus naturally came to be regarded as inviolable, a right of prime importance in those days of rather unsettled life. The Vedic singer says it is the good grace of Agni (the Fire god) that does it—

"Agni, thou savest in the Synode when perused,  
Evils him, far-seeing one I who walks in evil ways".<sup>3</sup>

Griffith remarks "the Viddha or sacrificial assembly seems to have been regarded as an inviolable asylum."<sup>4</sup> The next stage naturally moves on to metaphysical ideas.

### Suggestions of the Common Mind

The majesty of the congregated assembly, seen in the authority wielded by it, is further idealised and identified with the mysterious power, that is in every thing and is universal. This power is the very spirit operating in worded speech, in sacrificial rite, and in devotion of the heart. It is the unknown that gives validity and dignity to the assemblies, inspiration and vision to the speakers, usefulness to meetings and attractiveness to consultation, in short it is the one spiritual principle underlying all the phases of the social mind. In highly figurative language

<sup>1</sup> Composite Life in Ancient India, p. 36.

<sup>2</sup> White Yajur Veda, XX. 37.

<sup>3</sup> Rig Veda, I, 31. Griffith's Trans. p. 81. and Note: Oldenberg's remark gives us good meaning—"Then, O Agni, hasten forward the man who follows crooked ways, in thy company at the sacrifice" (S. B. R. XI.1.1 p. 33).

<sup>4</sup> Ibid. Vedic India-Jayva Policy, p. 66.

the Vedas have called it *Virat*, literally meaning "splendour," as they felt the august presence of an inscrutable power beyond analysis and description. A few passages relevant to this concept are given here :—

"*Virat* at first was all this (universe).....  
 She mounted up, and entered the assembly,  
 He who knows this becomes polite and courtly,  
 And people come as guests to his assembly.  
 She mounted up and passed within the swelling,  
 He who knows this becomes fit for the meeting.  
 And people come to his hall of meeting.  
 She mounted up and entered consultation.  
 Whoso knows this is fit to be consulted,  
 And people come to his consultation.

Again—

*Virat* is speech and earth and air's mid region,  
 He is *Prajapati* (god of creation) and *Mṛtyu*  
(god of death).

\* \* \* \*

They call *Virat* the father of devotion,  
 He, whom, advancing, sacrificers follow.

\* \* \* \*

By whose control and heat the spirit moves,  
 He is *Virat* in highest heaven, O sages,  
 Breathless, moving by breath of living creatures.

\* \* \* \*

Who hath perceived *Virat*'s duplications,  
 Her seasons, her rule and her practices ?  
 Who knows her steps, how oft, how far extended,  
 Who knows her home and number of daughters ?<sup>1</sup>

\* 1. *Atharva Veda*, VIII. 2 and 10—

*Virat* viṣvānjanitāḥ

*Indriyāṇāṃ ca vācānāṃ āśānāṃ ca,*

*Yatīdṛṣṭvā vācāṇāṃ vācāṇāṃ yā vācāṇāṃ,*



Griffith speaks of Virāj as a "mysterious divine being or abstraction, evolved by speculation, endowed with creative and other miraculous powers and the subject of many fanciful allegories".<sup>1</sup> Virāj is both male and female, as shown by Muir.<sup>2</sup> The Rig Veda traces its birth to Purusha (the world-being), and the commentator Śāyana includes it among the "thirty four" primary gods of the Vedic pantheon.<sup>3</sup> Ragoon has emphasised its "mystical conception" on the basis of the Śatapatha Brāhmana,<sup>4</sup> while Dr. Das has identified both Purusha and Virāj completely.<sup>5</sup> The interpretation of Mr. Arambold Ghose is that it is "the universal spirit" manifest in "the conscious communal soul and body".<sup>6</sup> It is equivalent to the Christian conception of "the word" and "the Holy Spirit", according to Griffith,<sup>7</sup> in the context of the passages above, and seems to be the Aryan anticipation of the divine presence, which was revealed by Christ in his self, when He said "where two or three are gathered together in My name, there I am in the midst of them".<sup>8</sup>

A common purpose in the mind of men, as spiritual beings, invites the divine to be present as the connecting medium. This divine element converges all minds to a focus, one with the divine, and moves them towards a higher

---

Sādāśatam ādī devitācāryakṛtānāṃ,  
 Yajñayācāryakṛtānāṃ śāstṛyācāryakṛtānāṃ ya āvācācāryakṛtānāṃ,  
 Sādāśatam ādī devitācāryakṛtānāṃ,  
 Yajñayācāryakṛtānāṃ śāstṛyācāryakṛtānāṃ ya āvācācāryakṛtānāṃ  
 (S. P. Pandit's Ed. II pp. 600-670)

Vide Whitney's reading: IL O. S. Vol. 3, pp. 589-591. Muir's Sans. Texts, V p. 200

<sup>1</sup> Trans. of the Atharva Veda, Vol. 3, p. 418.

<sup>2</sup> Sans. Texts, V, p. 200.

<sup>3</sup> Vide Rig Veda, X, 55 & 56 and note; Max Müller's Ed., with Śāyana's Commentary.

<sup>4</sup> Ragoon's Vedic Index, p. 486.      <sup>5</sup> Rig Vedic Culture, p. 477

<sup>6</sup> A Defence of Indian Culture, Arya, Nov. & Dec., 1930, p. 235.

<sup>7</sup> Trans. of Atharva Veda, Vol. 1 p. 416.      <sup>8</sup> Matt. 18, 20.

realisation. In philosophical language it is the common mind, which, being interpreted by the speakers, draws the hearers together, through reciprocal understanding of the common object, to be mutually evolved, stage by stage. The Aryans perceived it faintly and vaguely and found in the supernatural and superhuman "splendour" a really transcendental principle—something ineffably uniting the speakers and the hearers into a collective body and making corporate meetings and co-operative consultations possible, for the ultimate production of the common good. It is a phase of the same political consciousness, which prayed for the unity of the tribes and the freedom of the people and the long life of the elders and of the assembly itself.<sup>1</sup> Herein may be discerned a potent metaphysical truth.

Very easily indeed it can be seen that *Virtj* is at the beginning identified with the whole universe, pervading it as its inner principle, much like the world-soul of the Vedanta or of the Platonic and the Stoic philosophy. It is thus a universal principle, which only becomes specified in application for political purposes. Its entry into the assembly imports directly that it has some action there and this is but its social aspect; it is but one side of its universal operation. Its legitimate sphere, as far as its social side is concerned, is the minds in the assembly.<sup>2</sup> It creates for them the necessary atmosphere and the medium to play in. Knowledge of its presence or, in other words, of this principle, makes people polite etc., in short well disciplined, and gives authority to the rules; otherwise there can be no reason, nor need, for such parliamentary virtues. Where laws are operative, respect and good-will of people are essentially indispensable. All people make

<sup>1</sup> See Chap. IX on "Freedom & Identity".

<sup>2</sup> Cf. Bradley's *Ethical Studies*, p. 184—"It is the objective ideal, which is ubiquitous and self-conscious in the citizens; it feels and knows itself in the heart of each."

it a point willingly to be there as guests and contribute their quota. The whole business in this manner becomes co-operative in its nature. It is for Virij that such things are possible. Virij is the common medium for such interaction between minds. What is called "social process" in Social Psychology is idealised and defined here<sup>1</sup> and the inevitable transfiguration takes place of the physical into the spiritual.

The meeting is evidently the more practical phase and consultation is the kernel of it. Here too Virij plays an important part. The consciousness of this fact enables one to approach the meeting in the right spirit and its object is then properly appraised. Such a quality in those, who meet, is expected to render them helpful to one another. The seriousness of purpose is realised in proportion to the consciousness of the need. Any high concern or calling has from this point of view something divine in it, which men feel as super-human in its size and authority—an intuition standing apart from ordinary intellectual processes. It is often perceived as an objective presence, though it is only an abstraction. A vast meeting for a very serious business inspires such awe and appears simply to be august and, as it were, separate from those, who attend it. It is no wonder that the spirit of the meeting is deified into a personal being, which is said to work out in the meeting itself.

Remembering the many variations of the one truth of the universal spirit, operating in men individually and collectively, the as yet unelaborated Hindu doctrine may be said to have had the necessary and legitimate philosophical recognition, though the nature of its utility was uncertain and unknown. All the political thinkers of the world, who left their mark on political science, had something of

<sup>1</sup> Cf. *The New State*, p. 33.

this metaphysical tendency of idealising the state. The Hindus did it in a strain, which is philosophically not at all different, with regard to the Vedic National Assembly representing the early state in India. To them it was something charged, or at least intimately connected, with the divine,—the descent of God into human affairs,—or to use the classical words of Hegel, "the footsteps of God in the world."<sup>1</sup> The state is directly or indirectly raised to its ideal position and is shown to be "rooted in man's spiritual nature".<sup>2</sup> Mr. Rao has given a suggestive parallel in describing the make of the body politic in keeping with the spirit of orthodox Hindu thought.<sup>3</sup>

Hillebrandt finds a sanctified aspect given to the assembly, as an institution, by religious ceremonies and prayers and sacrifices offered on its behalf.<sup>4</sup> It is true, as has been observed previously, from the religious standpoint, but there is yet something more, which is metaphysical in character and which in all probability powerfully influenced later canonical thought on political authority. A suggestion is worth making here in imitation of T. H. Green in his criticism of Rousseau's "general will". It may be said that the Vedic seers saw through their assembly in their conception of Virḍj—

".....There's on earth a yet angrier thing,  
Veiled though it be, than perflument and king".<sup>5</sup>

<sup>1</sup> *Phil. of Right*, Sec. 426 Dyke's Trans.

<sup>2</sup> *Social Purpose*, p. 79.

<sup>3</sup> *Devil of Democracy in India*, p. 100. "The nation state has, like the individual, three bodies—for the *Ātma* (as in the physical body, the gross physical body—for the *Endriya* (Senses, the astral body, a conscious life and interests—for the *Karman* (Karma, the mental body, a conscious sentiment of unity and a centre of governing organs, through which the conscious ego can control itself and act.

<sup>4</sup> *Indian Mythology*, I, 103-104.

<sup>5</sup> *Green's Political Obligations*, p. 22.

And this conception is in agreement with their general philosophical outlook that it is to "this angustur thing," and not to such powers as the assembly and the king, that ultimate authority really belongs.<sup>1</sup> Hence they looked upon *Vindj*, as Plato's Reason (*Nous*), as the source of law and discipline, and religiously prayed to the same *Vindj*—

"Of her the gods and men said....

That we may both have life let us invoke her,

.....

Thus did they cry to her (*Vindj*),

Come Strength ! come Food ! come Charmer !

come Free giver !"<sup>2</sup>

### Another Phase

Another phase of the highly mystical experience, of realising in the meeting something more than what is purely individual, personal and superficial, is seen in the figurative representation of the "unborn-spirit" working in and through the occasion, but also identified with the occasion itself. This is the same unborn-spirit, which is symbolised in the sacrificial victim, in which the sacrament is embodied, as the unity of the spiritual and the material. It is the indescribable presence without which the meeting loses its rest and fervour and its season and occasion are not possible. "Working Season," and "Conquering Season" are the appellations given to the eternal unborn-spirit in its various operations :—

"The man, who knows the season called the Meeting, takes to himself the gathering time, his hated rival's gathering time—

The unborn-spirit is this Meeting Season !

<sup>1</sup> Adapted from Green's *Political Obligation*, p. 82

<sup>2</sup> *Atharna Vols VIII, 10. Gifford's Trans.*

The man, who knows the season called the Working, takes to himself the active fame, his hated rival's active fame—

The unborn-spirit is this Working Season.<sup>1</sup>

It seems that the unborn spirit is the inspiration of the whole meeting and the clamor urge of active work. Anyone, who perceives this and is at one with it, rises to fame and recognition and success. The objective spirit at play in the meeting and in active work waits for the man, who watches for it, in order that it may act through its proper instrument. It is always there and can be elicited under favourable circumstances.<sup>2</sup>

In other words the eternal spirit is born again and again in meeting, in work, in conquest, in noble attempt. All these incarnate the spiritual reality, that is manifest in them and realises itself, wherever darkness is dispelled, wrong is righted and freedom is wrought. The Vedic ideas is such passages, though usually metaphysical and mixed up with religion, admit of philosophical treatment to a great extent. The Atharva Veda further speaks of the unborn-spirit as :—

"This unborn cleft apart in the beginning, his breast became the earth, his back was heaven. His middle was air, his sides the regions, the hollows of his belly formed the oceans. His eyes were truth and right, the whole together was Truth, Varj his head, and Faith his breathing."<sup>3</sup>

This eternal spirit is named sacerdotally "The Goat," (the sacrificial victim), "Pañchadhama," emblematic of eternal sacrifice going on in creation.

<sup>1</sup> Atharva Veda, IX, 5, 23, 24. Griffith's Trans.

<sup>2</sup> Griffith's translation has been amended according to the St. Petersburg Dictionary for the purpose of interpolation.

<sup>3</sup> Atharva Veda, IX, 5, 19, 20. Griffith's Trans.

"The free man's worship"—if it is not out of place to add here—is seen in their almost Platonic approach towards the Absolute in every department of practice and speculation, whether political or philosophical, which blend together in the long run. A specimen hymn closes this section showing the burden of their thoughts :

"Power art thou, give me power. All hail !  
 Might thou art, give me might. All hail !  
 Strength art thou, give me strength. All hail !  
 Life art thou, give me life. All hail !  
 Ear art thou, give me hearing. All hail !  
 Eye art thou, give me vision. All hail !  
 Shield art thou, shield me well. All hail !"

Dr. Dutt has rightly observed that "the sage-priests, the mighty thinkers of old, the brainiest among the people, who led the van of progress in the early and subsequent ages of Aryan development..... discovered the intimate relations of the cosmic powers with human welfare..... and fused the disjointed and discordant elements into one homogeneous whole."<sup>1</sup>

### The Buddhist Age

Buddhism, being in general a systematic revolt against Brahmagical orthodoxy, has also contributed its remarkably original quota to the political thought of India, though it does not show purely in principle anything greatly different from what has already been discussed and delineated. In fact the principles themselves have been supported and reinforced by the fabrication of imaginary history of society and mankind, making for greater and deeper individual liberty and much better organisation. Its theories, in many respects parallel to those of the great Epic, ought to find their place in Indian Political Philo-

<sup>1</sup> *Atharva Veda*, II, 36. *Griffith's Trans.*

<sup>2</sup> *Big Vedic Culture*, pp. 504, 505.

sophy as a whole, if not as their source directly, but certainly as springs of new political thought. The springs of the great Buddha, or the Enlightened, touched the problems of metaphysics and religion, as well as those of politics and ethics. He set thought absolutely free and hence fresh conceptions were possible and the very spirit of enquiry underwent a radical change. The origin of kingship and of political organisation and the conditions of republican welfare and prosperity engaged his attention according to the *Digha Nikāya* and the *Aṅguttara Nikāya*, works composed long after the great teacher's death. Both of the accounts reveal a solid moral and human tone worthy of the revered name with which they are so closely associated. The position brought about by Buddha's teachings and the consequent freedom of the spirit may be summed up in the language of Professor Radhakrishnan.<sup>1</sup>

"Buddhism helped to democratise the philosophy of the Upanishads.....to make it available for the daily needs of mankind. In the collapse of creeds and the disintegration of systems it was the task of Buddha to provide a firm foundation for morality. As in the Greek world the larger and more comprehensive metaphysical systems of Plato and Aristotle were followed by the ethical speculations of the Stoics and the Epicureans, so it happened in ancient India. When the foundation of philosophy became shaken, the principle of conduct attracted the attention of the thinkers. Ancient Buddhism resembles Positivism in its attempt to shift the centre from the worship of God to the service of man. Buddha was not so keen about founding a new scheme of the universe, as about teaching a new sense of duty....The moral law is the necessary expression of the truth of things."

<sup>1</sup> New Sri S. Radhakrishnan.

<sup>2</sup> Indian Philosophy, pp. 355, 471.



## Social Compact

In the first work, the *Digha Nikāya*, a history of creation is attributed to Buddha, and the general classical assumption of a hypothetical Golden Age is usual, and perfection is taken for granted in every thing. Degeneration ensued later on;....the cause is not explained except the mention of the putting on of physical bodies by beings incorporeal .....and the original state of nature, which is stated to have been "a state of purity" was lost for ever. In Rockhill's Buddha these are attributed to the eating of rice, which grew naturally as common food for all. Those who ate little had clear complexion and became proud of it. Sex distinction became prominent, because of eating this stuff, and the result was lust. The conception of wrong gradually came to be formed. Theft and mis-appropriation appeared, but the thief and the thief-catcher were both reprimanded. Thus came in all the differences of colour and sex, the institution of property, family and the classes.<sup>1</sup>

A series of compacts is imagined to account for all these and to counter-act the degenerating tendencies at work. But when it was found "that theft has appeared in society, the people agreed to choose a king". The Epic contract, as found in the *Śaṇḍi Parva*, has no such definite and graduated stages.<sup>2</sup> Positive representative authority was made over to the king including (a) punishing (b) reproaching (c) banishing. Perhaps these show the grades of punishment according to the gravity of offences.<sup>3</sup> Similarly he was given the power of (a) cherishing (b) favouring (c) being gracious. These mean probably the different ways of rewarding deserving ones.<sup>4</sup>

<sup>1</sup> Cf. Rockhill's Buddha, p. 4 ff.

<sup>2</sup> See Satya Ch. I on Origin of the State.

<sup>3</sup> *Digha Nikāya*, Vol. III. See 17, *Aggalla-Sutta*.

<sup>4</sup> Renard's *Hitakavata*, Vol. I, pp. 247-5.

The king is more a national judge, than a ruler in the Buddhist account, indicating that the state was not yet so complex an organisation as that of the Epic. No divine element is at all noticeable anywhere in the Buddhist tradition; on the contrary Buddha's humanistic tone and positivist outlook are paramount in all his utterances. Dr. B. Pious has observed—"Here divine interposition is conspicuous by its absence; reason and expediency alone determine the formation of the state; government derives its validity from consent; it exists to fulfill certain definite needs. It is difficult to ascertain whether the idea of the pact originated with the Buddhists or they borrowed it from previous Brāhmanic thinkers and merely stripped it of its super-natural parts."<sup>1</sup>

The Dīgha Nikāya and the Mahāvastu both agree in paying the king for his services—"a share of paddy" according to the former, and "one sixth of the produce", according to the latter.<sup>2</sup> It is desirable to note in this connection the fact, that "administering justice" becomes a definite factor in the Buddhist Contract, and the tax becomes the remuneration for such work. The Epic Contract lacks this emphasis on the ethical principle, but it has more political flavour in taking into consideration the various ramifications of state matters. The Buddhist account has stressed the "serving office" of the king as ruler—a conception of mighty political potency. Dr. Ghosal thinks that "In this instance upon contract as the foundation of the political order and above all on the basis of the contract itself, the Buddhist canonist had evidently discovered a weapon, which might be used to justify almost any degree of popular control over the king and in

<sup>1</sup> *Theo. of Govt. in Ind. Ind.*, p. 206.

<sup>2</sup> See *Supra*, Chaps. I and II on *Theories of State and of Kingship*.

particular to counter-act the contemporary dictates of respect and obedience of the people."<sup>1</sup> From this standpoint the Buddhist contribution is worthy of the republican period in which it was born. It served for the most clearly pronounced and well-grounded dictum of popular authority.

### Position of the King

The most significant and important advance is seen in the writing of the Buddhist Monk Āyadeva in his *Chetashāstika*, although it is not essentially a book on politics. He has called the ruler for the first time "a servant of the body politic" with the sixth part as his pay.<sup>2</sup> Following him, Śakra, the last outstanding Hindu political thinker, has also termed the king in exactly the same way to have been "created a servant of the people by Brahma" (the god of creation) receiving from the people his dues.<sup>3</sup> It seems he had tried to connect the reduced position of the king with the creative will of the god of creation, in order to give it as far as possible a religious sanctity and consequent dignity. He thus indirectly leans towards Manu, the orthodox legislator, who held the idea of the special creation of the king out of divine will. It is a beautiful combination of orthodoxy and heterodoxy, or canonical and secular ideas, effected by real political vision and wisdom.<sup>4</sup> But the most unexpected fact in this respect is that even Kautilya, the supporter and in a sense the maker of ancient Indian Imperialism, has probably unwittingly and unwillingly admitted popular authority in the relation of the people with the king, as that of master and servant. In section 365 of the *Arthashastra*,<sup>5</sup> Kautilya's "virtuous king" speaks to his army—"I am a paid servant like yourselves, this country is enjoyed by me together with you". Further

<sup>1</sup> *Hist. of Hindu Pol. Theory*, p. 228.

<sup>2</sup> *Chetashāstika*, p. 461,—"Gandhārvaḥ sa gaurāḥ śaṭbhāgaḥ lakṣaḥ".

<sup>3</sup> *Solan Vāc*—I, 128.    <sup>4</sup> *See* *Supra* Ch. III, *Theory of Kingship*.    <sup>5</sup> P. 162.

admission by him is in styling a minor king as "a flag", i. e. a mere emblem, while in fact "the people are the lords."<sup>1</sup>

Besides theoretical ideas, the words of throned monarchs afford similar evidence. A note-worthy confession by a king of the Buddhist time is recorded in *Talapastika-Jataka* cited by Professor Bhanderkar.<sup>2</sup> It is the king of Taxila, then a flourishing place and the seat of the famous ancient university, who had frankly to tell the object of his love— "I have no power over the subjects of my kingdom, I am not their lord and master, I have jurisdiction only over those who revolt and do wrong." All these passages show how far popular authority was pushed forward in and after the time of the rise of Buddhism. Similarly in the *Saravala Jataka*, quoted by Dr. Kay Choudhury, the king had to ask his courtiers to fix the succession according to their will— "Friends, all my sons have a right to the white umbrella. But you may give it to him, that pleases your mind."<sup>3</sup>

Again it is clear that the influence of Buddhism was undoubtedly very great on the purely secular writers and theories from the pre-Epic age to the post-Epic age, i. e. on political literature in general, as is illustrated by the attitudes of Kautilya and Śūdra to this topic. The doctrine of the paid royal office, or engagement on wage-giving principle, is indirectly as old as the ancient custom of election, while it comes directly through the sacred law of Buddhayana, via the social contract.<sup>4</sup> The Buddhistic originality consisted in defining kingship as service to the people from a mixture of political and social ideals. Drs. Banerjee and Bhanderkar both agree as to the limited power of the office of the king from the above conceptions of service and salary.<sup>5</sup>

<sup>1</sup> Acharya, p. 38.

<sup>2</sup> *Carvedal Lectures*, I, p. 135.

<sup>3</sup> *Pol. Hist. of Anc. Ind.*, p. 83.

<sup>4</sup> *Sage's Chaps. 1 & II, Theories of Kingship and Vedic Election.*

<sup>5</sup> *Pol. Ideas, in Anc. Ind.*, p. 78; *Carvedal Lectures*, I, p. 135.

## Republicanism

Republicanism is the most remarkable and outstanding characteristic of this period, and Buddha himself, being a born republican, was its greatest mouth-piece, whom Gutsch has styled "a staunch supporter of democracy and propagandist against monarchy."<sup>1</sup> Separately it is a theory by itself. Nothing more than a bare outline is necessary here for the purpose of connecting it up with the subject of popular authority. Professor Sarker says, "The entire philosophy of democratic republicanism found an able exponent in Śākya the Buddha, who, though he renounced the family ties, remained an active propagandist all his life. And the propaganda embraced lectures, as much on constitutional law, trial by jury, res judicator, government by the majority, the importance of public meetings and all other branches of civic life, as on the path-way to salvation and the elimination of misery from the world of men....It was the Śākya's anti-monarchism and republican fervour that kept up the spirit of resistance among the senators sufficiently high to enable them to accept the royal challenge of Ajātasatru. For they are heartened by the Śākya's judgment that the Vijiṇa could not be overcome as long as their federation was unbroken".<sup>2</sup> Exactly in this connection Buddha laid down the famous conditions of the existence and prosperity of the republics,<sup>3</sup> which as tested and tried principles rank very high among democratic doctrines.

The great principles of the Buddhist Ethics revealed the gospel of the all round emancipation of the spirit. It was the Śākya's doctrine of "Sama-Sattva-mātrī"<sup>4</sup> that revolv-

<sup>1</sup> Hist. of Pol. Thought, p. 37.

<sup>2</sup> Pol. Theo. & Ide. of Hindu, p. 185.

<sup>3</sup> See Ch. XVI on Republics.

<sup>4</sup> Sakyanum Paphuṇa, 3. B. E. XII, p. 292. Pol. Theo. & Ide. of Hindu, p. 185.

idealised the country in favour of universal brotherhood, no less than the message of "appamada" (strenuousness) and "virya" (free energy)<sup>1</sup>. His uncompromising ethical idealism infused a new spirit into the meaning of social and religious democracy of the time and established it on the safest foundation of moral regeneration and it is a truth which is equally applicable to the world of to-day. Necessarily the whole of his social philosophy is signified by a co-operative and practical import touching human nature at its very core and subsequently spreading over the entire area of human interest and enterprise. By his friendship to all beings a universal equality was proclaimed for all and in free energy was chalked out the path to the universal good, while through strenuous vigilance was ultimately opened a vista of the eternal life, that is the highest completion and the very last of human objectives. Dr. Haradaya has pointed out on the basis of important texts that "Virya is the pursuit of the good, the urge for all altruistic activities"<sup>2</sup> and "Appamada is the careful conscientiousness, which is the root of immortality (absolute perfection)"<sup>3</sup>.

Indeed the social good and the spiritual good are not far apart—they are both of a piece, for the Buddha truly assured in the Dhammapada that "the streamers never die" anywhere.<sup>4</sup> And "the Buddhist Dhamma-Chakka, the ideal par excellence of society and state based on pure righteousness,—could not but be founded on principles of justice, equality and brotherhood, for Buddha's religion itself was in the main agnostic, rationalistic and realistic,

<sup>1</sup> *Pol. Econ. & Ideo. of India*, p. 130.—Cf. "I (Buddha) speak highly of virya, virasita and phala" (*Samyutta Nikaya*, V, 73-75).

<sup>2</sup> *Sikshasamuccaya*, 10, quoted in Dr. Haradaya's "Buddhist Social Doctrine in Sans. Buddh.", *ibid.* p. 227.

<sup>3</sup> *Deśinīyavastu*, VII 2, p. 216 of Dr. Haradaya's book cited above.

<sup>4</sup> *Dhammapadam* p. 22; See *Buddhist India*, *Varanasi*, p. 21.

but essentially ethical.”<sup>1</sup> Evidently this majestic circle of righteousness included all virtues that moralise the individual and the world. It is no wonder, therefore, that Anatole France has spoken of Buddhism as “a philosophy which is in agreement with the most daring speculations of the modern spirit.”<sup>2</sup> The full implications of Buddha’s political pronouncements and methods fall under the general principles of republicanism in the chapter allotted to it.

### The Epic Age

The Vedic Age gave place to forces, which produced quite a different political atmosphere, and hence political theories were generally cut off from old moorings, though several strata of the old thoughts permanently remained underneath the surface to be directly open to view here and there. The Epic Age made use of all the tendencies left behind by Vedic and Buddhist speculations. It was the period of reconstruction in many ways characterised by Professor Radhakrishnan in the following extract :—

“The marvellous uncertainty and ambiguity of existence, the discordant attempts to systematise the world, the bewildering chase of arbitrary by-ways, side streets and resting-places of thought invented by suffering humanity trembling in fear yet delighting in the new and the untried, the desert of unbelief, exhaustion and frigidity in the midst of energy, youth and enterprise make the *Epic period*, an eventful era in the history of Indian thought..... So in this age of experiments many new systems were put forward, opinion was set against opinion, ideal against ideal. Change in the habits of thought is created not by one single influence

<sup>1</sup> See *Studies in Hindu Pol. Thought*, pp. 52-53.

<sup>2</sup> *Modern Review*, April, 1897, p. 595.

but by a combination of several..... The sense of failure—the failure of state and society—the loss of hope in this world, the diffidence of humanity threw the individual back on his soul and emotions..... In the tumult of thought consequent on the disintegration of *faith and declaration of the independence of man*, ever so many fancies and speculations were put forward.”<sup>1</sup>

It was in fact the time of tremendous transitions; and in social and political matters the shock of change brought down the old and orthodox views replacing them with new ones, mainly original, mostly radical. Perhaps long-standing traditions, such as those of the *Śāstra* and *Sūtra* periods, (i. e. of sacred laws and sacred institutes), helped as well as retarded the nascent growth of free thought on the state and governmental affairs. The sacerdotal and religious aspects, that got attached to theories and systems, were too strong to be altogether lost; hence they were partially, and successfully to that extent, transmuted and applied to altogether new purposes under new contexts. The germs independent thought, in the Vedic and the post-Vedic periods, undoubtedly supplied great impetus to the advance of fresh speculation. The advent of the two great Epics, with stupendous masses of social and political matter imbedded in them, together with the effects of Jainism and Buddhism in revolutionising the crevices and corners of the country, brought to a close the broad, doubtful and virile school of thought associated with the Vedas and their subsidiary literature.

### **New Ideas—Sophistry**

Since it is true “that politics advances wherever general philosophy is highly developed”,<sup>2</sup> there is ample justification

<sup>1</sup> *Indian philosophy*, Vol. I, pp. 175-8.

<sup>2</sup> Prof. J. E. Meckel's Lecture, 1892.



for the new-fangled ideas of this time on government and society. The social contract may be said to be the special contribution of this age, illustrative of its characteristic independence and originality, equally in the domain of politics as in that of metaphysics. No trace of the contract idea, it has already been remarked, ever prevailed in connection with the ancient custom of election, which stood like a land-mark in the constitutional history of the country, and was the greatest and the most precious heritage of the past and in fact obviously the keystone of later popular right and authority. In one sense the theory of social and governmental pact may be said to be only an expansion and elaboration of the germinal idea contained in election and self-determining choice, which were in turn assimilated and incorporated by it in course of its growth.

But the contract theory assumes many more fictitious conceptions about mankind and society. The historical back-ground of election was actual and real "order" (*dharma*, i. e. system), which, according to the *Rig Veda*, "lives amongst men"<sup>1</sup> and is but the manifestation of an un dying instinct, admitted even by the imperialist Kautilya.<sup>2</sup> The social compact takes for granted just the opposite—the sure possibility of social disorder, which necessitates the organisation of political government; that is to say government is meant for the suppression of unclimable wickedness.<sup>3</sup> So the *Mahābhārata* says "Gods have pointed out the need of a king for putting a stop to wickedness".<sup>4</sup> A ruthless egoistic ethics flourishing contemporaneously supplied the

<sup>1</sup> *Rig Veda*, IV 40

<sup>2</sup> Dr. Jayasval's interpretation in *Calcutta Weekly States*, Vol. XV, p. 126.

<sup>3</sup> Cf. *Four Puras*, Common Sense, I, Common's Will, Social & Political Models of the World, etc., p. 122.

<sup>4</sup> *Ēkām Purā*, 67—

intellectual support to such cramping social and political ideas. It is Hobbes repeated on Indian soil. Says the narrow, shallow and temporising moralist—

"In this world everybody is eager for self-protection. Friendship and enmity are consequent on might and in reality none is friend nor enemy. There is no permanent friendship or enmity, self-interest being their only cause. What indescribable power is in self-interest! The whole world is controlled by self-interest. Nobody is really loved by anybody. Even the affection of brother and sister and wife is not causeless. Where there is no interested connection there can be no love at all. Practically people show love when some ulterior motive is realised through somebody. Therefore love depends on a cause, the former disappears when the latter is absent. Time only reveals the cause, which can never exist without self-interest. He, who can realise his self-interest, is wise and others follow him. Our necessity brings in our exhibition of amity, which vanishes with the fulfilment of the want. We show favour as long as we carry out interest. Mutual favouring is due only to the gain of advantage.

How can there be peace against the mutual relation of the eater and the eaten, the powerful and the weak? The relation between the weak and the strong is never praise-worthy, as the powerful should always be feared. People forego for self-protection children, relatives, kingdom and wealth. The sastras point out that the self has to be saved even by letting go one's wife and wealth. Self-protection is the duty to be done carefully without trusting anybody in the world. Better be trusted by others but never trust others yourself. Distrust is the root of the conclusion arrived at by the makers of moral science."

"The clever only are able to deceive others by dissimulation. Sharp intelligence arises from fear and consequent carefulness. Humility is never pacified. Only time makes enmity and friendship. Enmity originates through wife, property, offence, harshness and caste, according to the *sūtra*. Like the joint of earthen vessels peace breaks down after enmity. Hence moralists declare suspicion to be the root of future prosperity."<sup>1</sup>

Such a selfish morality, if it deserves the name of morality at all, could not but produce a quite independent and original theory of society in its own way and serving its own purpose; but it must also be to the credit of the age that it never succeeded in undermining the conception of order and system implied in the most complex idea of *dharma* (righteousness) of the orthodox school. This stream of thought kept the social instinct alive in its proper position, in spite of the materialistic revolt against the extreme of orthodoxy, and though often abused by religiosity and sacerdotalism, its influence for good was of the highest value.<sup>2</sup> The general results of the Epic sophistry may be summed up in brief in a few lines from the *Mahābhārata* :—

"There is no standard in the world—what gives pleasure to the wicked checks good men.<sup>3</sup> The same work may be good or bad at times,<sup>4</sup> nothing is higher than pleasure, it being desired by all.<sup>5</sup> All beings have from birth the right to enjoyment according to desire.<sup>6</sup> All are mad after self-interest.<sup>7</sup> It is impossible to find out real righteousness."<sup>8</sup>

<sup>1</sup> *Epithāmasa Parva*, 178, 149. See H. N. Dutt's *Trans.* p. 170 B.

<sup>2</sup> Cf. Kapila's 'The Great Epic' pp. 44-5. See Chap. XI on the Philosophy of *Dharma*.

<sup>3</sup> *Uttaravāsa Parva*, 2.

<sup>4</sup> *Mahābhārata Parva*, 150.

<sup>5</sup> *Bhishma Parva*, 3.

<sup>6</sup> *Epithāmasa Parva*, 142.

<sup>7</sup> *Aśvamedha Parva*, 117.

<sup>8</sup> *Suparmanvīkṣāna Parva*, 108.

## State of Nature and Law of Nature

This prologue was not meant for the imaginary description of Anarchy or the "socio-plasmic state of nature," the condition of life without law and order, which needed control and restraint, or in short, organisation. This fanciful state of nature, prior to regulated social life, is taken for granted without criticism. A typical picture of anarchy is drawn by the Mahābhārata in the following extract from the three accounts of the state of nature in the Śānti Parva, Chapters 47, 59 and 15,—

"Just as creatures are unable to see things when the sun and the moon do not shine and everything is in darkness, just as the fish in shallow water and the birds in the wilderness attack one another and die, similarly the people fall into ways of sin like shepherdless cattle when there is anarchy in the land. The strong easily rob the weak of house and things; none can live to rear the family and to earn livelihood. The course of the world comes to a vanishing point. The wicked suddenly attack the good with weapons, and the country is filled with sin. Old parents and preceptors are troubled, tortured and murdered, and the rich are molested, maltreated and killed. Nobody has the sense of "mine-ness", i. e., claim on anything, and everything undergoes decay. All the places are filled with robbers and all the people fall into unrighteousness. Respect for women and trade and business disappear. The study of the Vedas, the rites of sacrifice, the rules of marriage, social regulations and caste duties disappear. All creatures are filled with fear and anxiety and stagger and die shortly howling and screaming. Offenders live in safety; the strong ones easily break all rules. All fly away terror-stricken, caste-mixed and famine

pervail everywhere.<sup>1</sup> Any two unite to rob one, afterwards many unite to rob the first two,—even the wicked cannot be happy. Enjoyment of wealth, property and wife becomes impossible. The strong carry away women and make slaves of the helpless men.<sup>2</sup> Religious sacrifices lasting for a year with suitable gifts can never be performed with safety. Crows would carry away sacrificial materials and dogs would lick the sacrificial butter. All things would be disorderly and all rules would disappear.”<sup>3</sup>

But even here the Epic thinkers are divided in their opinion, as to the character of anarchy or the state of nature, only agreeing in the recognition of the condition itself intervening at a certain stage. According to Mr. Sen, “Sometimes, it is a state of bliss, sometimes, a state of uncertainty, while more often it is a state of war”.<sup>4</sup> Dr. Ghosal has classified the one as Canonical, i. e. orthodox, and the other as Secular, i. e. detached from the old modes of thought.<sup>5</sup> It is exactly like the difference between Hobbes and Locke.<sup>6</sup> A further analysis is required to

<sup>1</sup> Dash Parva, 63.

<sup>2</sup> Ibid., 67.

<sup>3</sup> Rāghavabharṇāṣa Parva, 15.

<sup>4</sup> Studies in Hindu Pol. Thought, p. 47. It is not right, as Gellhoff says, that the Hindus had no Golden Age nor a Garden of Eden in their politics. (Hist. of Pol. Thought, p. 27)

<sup>5</sup> Hist. of Hindu Pol. Theo., p. 135. A purely secular anarchy is described by the Yugaśākhya Kāvya—“The nation world remained Kingless for long and for the want of a ruler, Pāṇḍas fell into the confusion of the legs of the fish. Men of good quality began to behave like worthless chaffhills, strong men began to rob and enjoy the property of the weak. Respect and position of man altogether disappeared, women were oppressed by all and they began to steal one another's clothes. Oppressed persons weiled loudly. In short the exterior of the place was out of all order. The garden trees were all broken down and the men of the city lost their wealth and relations and fell to the ground over whelmed with sorrow. . . . These houses were attacked by robbers and were rendered beggars of the street without food and shelter etc.” (CP, 209, Bangashāṣa Edition).

<sup>6</sup> Natural Rights, p. 42.—“For Hobbes the state of nature is simply

make the difference clear for the purposes of political philosophy. Dr. Ghosal says that "While the sacred writers consider it to be initially a perfect state, the secular writers consider it to be wholly evil from the first".<sup>1</sup> The point of contact between the two sets of thinkers is evidently the instability of society or the condition of the "logic of the fish", either through gradual degeneration or from the very origin.

The first stand-point is that—"At first there was no Government, nor king, nor punishment nor punishable offenders in the world. Men lived only by righteousness (dharma) protecting one another." This natural righteousness governing men's conduct is but the counterpart of their natural reason and may be conveniently equated with the law of nature and the dictates of right reason postulated by Locke and Pufendorf.<sup>2</sup> The second stand-point maintains that "In older times there being no king on the earth the people began to eat up one another (like the fish). Then some good men gathered together and made a law to forsake those who stole property" etc."<sup>3</sup> Both views are placed side by side in the Mahābhārata, giving rise to two distinct theories of the state, when the trends of thought are followed up consistently; the one leads to Constitutionalism limited by conditions and the other ends in an indefinite assertion of popular authority tending to be absolute. The immediate causes, which brought about the formation of government, in both cases monarchical (after the Vedic Election), were in one instance "mohas"

what would remain if all human institutions were taken away', and the other of a state of war of all against all. Locke has an idea of a golden age existing even after government has come into existence,—a time when people did not need to examine the original and rights of power itself.

<sup>1</sup> History of Hindu Political Theory, p. 146.

<sup>2</sup> *Śāstrī Parva*, 59. *Sandhya in Hindu Pol. Thought*, p. 36.

<sup>3</sup> *Śāstrī Parva*, 59, 71.

(infatuation—error), and in the other "grief", (due to failure) after the temporary working of the social contract, as distinct from the later governmental contract. The two positions are—

(a) "At last they began to feel mutual protection to be troublesome and *moha* (infatuation) entered their minds. Due to *moha* their reason and righteousness disappeared."<sup>1</sup>

(b) "But afterwards they were grief-stricken and approached Brahmā, the creator, saying we are suffering for want of a king".<sup>2</sup>

It is quite clear from the contexts that the infatuation was due to taking trouble for others unselfishly and the grief was due to their failure in keeping society going by the first Contract, which was social and not governmental.<sup>3</sup> Both views have the two contracts put together. The former wished that the "Law of Nature", created by god Brahmā, might not perish, as it was ordained by Brahmā himself. The latter tried to rouse "*mutual confidence*"<sup>4</sup> in all castes by an agreement against undue license. But the transition, from the first stage in the state of nature to the second stage, is not explained any more beyond saying that men began to commit errors owing to infatuation or became grief-stricken because of their failure in preserving society. So a growing degeneracy is taken for granted, through the story "continually oscillates between the actual and the ideal",<sup>5</sup> as it is found in *Romances*.

This social pessimism, it must be added, is not new in the Epic, which believes that "men of real good nature

<sup>1</sup> *Ibid.* 48      <sup>2</sup> *Ibid.* 49.      <sup>3</sup> See *Supra*, *Theory of the State*.

<sup>4</sup> *Śānti Parva*, 50: *Tri-prakṛtiya-matsyasya madhava cāṭvāryaḥ* (*Śānti Parva*, 50, p. 187).

<sup>5</sup> *Ibid.* 47: *Vidhātṛkālīka sarvathā varasamāśṛṇvāṇa* (*Śānti Parva*, 47, p. 185).

<sup>6</sup> See *Śānti* in *Śānti Pad. Thought*, p. 48.

are extremely rare".<sup>1</sup> Mann had it and it was handed down to so late political thinkers as Kāmandaka and Śakra. It may also be traced back to the R̥g Veda. The Purāṇas of course abound with such ideas. Mann has categorically stated—

"Rare is man pure (sinless)."

People are prone to interfering with the rights  
of others",<sup>2</sup>

And violating morals and manners".<sup>3</sup>

Kāmandaka in his Nīti Śāra, says "Men are by nature subject to passions and are covetous of others' wealth and wives."<sup>4</sup> Śakra thinks that "men as well as beasts have to be always governed by adequate punishments."<sup>5</sup> But Kaṭīya is perfect in this respect in holding that "people are full of sins on the one hand, and kings are naturally misguided on the other."<sup>6</sup> The R̥g Veda anticipated the subject matter of such contentions by stating "surely there will come succeeding times when brothers and sisters will do acts unmeet for kinsfolk."<sup>7</sup> That the view taken of human nature determines considerably the character of politics, whether in theory or in practice, is illustrated in Indian thought as well. It may be posited that according to the conception of the intrinsic goodness or badness of the nature of man politics puts on the colours of anarchism or absolutism.<sup>8</sup>

### Social Contract

The conclusions of these political thinkers are important for the problem of authority in general, in determining its character as well as its direction. The pervasiveness of

<sup>1</sup> Rajadharmaśāstra (see Part I) 12.

<sup>2</sup> Ibid. VIII, p. 21.

<sup>3</sup> Nīti Śāra, p. 14.

<sup>4</sup> Uthāhṛita, p. 244.

<sup>5</sup> Cf. Sec. A Pol. Ideas of the Rev. Rev. p. 152.

<sup>6</sup> Manu Smṛiti, VII, p. 32.

<sup>7</sup> Ibid. VIII, 22.

<sup>8</sup> Śakra Smṛi, p. 224.

<sup>8</sup> R̥g Veda, X, 16-19.



the Epic has special bearing on the constructive part of the social contract. The request for the supply of a king being granted by the god Brahmā, the governmental contract was completed. There are two accounts of such governmental contract conspicuous for divergent conclusions. In the historical treatment Prithe was bound down by a constitutional oath, as the first really governing king, after a number of fruitless trials with his six ancestors. This goes naturally with the subject of the Theory of Constitution deserving treatment by itself. In the mythical account, Manu after his first refusal took up the management of the state on suitable conditions offered by the people, who were also to make their first king "grateful" to them by supplying all necessary materials. The statements by these kings, as given below, show their respective positions :—

- (a) Prithe—"O sages! Point out the works I shall have to do. I shall carry out your commands without hesitation."<sup>1</sup>
- (b) Manu—"I am afraid of sinning...the conduct of government and specially setting the wicked to their duties is a difficult task."<sup>2</sup>

Under Manu the whole state is practically managed by popular arrangements. The people were responsible for raising finance and army, the two great sinews of the state, since the time of the 'Vedic elections,' and these two elements form the fundamental basis of popular authority. Taxation and military affairs, being in the hands of the people themselves, nothing more is left to be done than migrating the ruler with gifts of these things that were considered essential to his personal position and use. The people proposed to Manu—

<sup>1</sup> Śaṅk. Parva, 29      <sup>2</sup> Ibid, 32

<sup>3</sup> See Sūrya, Ch. IV on Vedic Election

"Lord do not fear.....We shall give for the treasury the fiftieth part of our gold, tenth portion of our paddy and good looking (serving) girls in case of quarrels, gambling and toll-taking...Our men who are versed in the use of arms and chariots shall follow you...and one-fourth of our religious merits shall be your share...It is the duty of the people to supply to the king clothing, ornaments, conveyance, food, horse, umbrellas (and more) and other necessities...so that he may be unconquerable by enemies; well-controlled and loving and grateful to the people, and careful in protecting them."<sup>1</sup>

The pure and unalloyed Social and Governmental pact go in fact to raise popular power to the highest pitch by keeping it indefinite and therefore unlimited by conditions. They furnish everything needed, even a portion of the religious merits, and the king is no better than an elected and salaried servant of the state. He is raised or reduced to such a position that no vestige of his autocratic power is left in the contract, his dependence on the people being complete and absolute. It is only the state that has the sovereign power, representing the authority of the people. The doctrines of payment for the king's office according to the canonical laws<sup>2</sup> and for service to the people according to the Buddhist tradition<sup>3</sup> are seen in this portion of the agreement in their most condensed forms. The institution of property and the principle of punishment rising out of the formation of the state will come in their proper places. Professor B. K. Sarker's admirable suggestion about their sources requires special attention, in order that their nature and growth may also be set forth fully.<sup>4</sup> Similarly

<sup>1</sup> *Shuk Purva*, 47, and *Sage*, Ch. I. *Origin of State*.

<sup>2</sup> See *Sage*, "Nature of Kingship," Ch. II.

<sup>3</sup> *Ibid*.

<sup>4</sup> See *Pol. Inst. of Hindu* p. 524.

Taxation is to be dealt with separately after the subject of Constitution.

### Revolutionary Thought

The other political reflections, that lie scattered in the great Epic along with the social contract theory, may be mentioned here as contributions to the question of popular authority and as furnishing the standard of equality and freedom even up to the right to revolt and tyrannicide, whenever circumstances warranted them in. They are really the by-products of the political speculation of the age.

(a) All men have similar bodies and souls.<sup>1</sup>

(b) All men are possessed of all qualities (identically).<sup>2</sup>

(c) In reality everybody has equal claim to every object.<sup>3</sup>

(d) The king and the people are both of equal power and quality.<sup>4</sup>

(e) All men are like kings holding absolute sway in their own houses.<sup>5</sup>

These ideas are revolutionary in politics, as much as in the fields of Ethics and Sociology. Perhaps nothing in the whole range of Sanskrit literature can stand by them, excepting the superb doctrine of the soul in the Upanishads. It is difficult to find out how far the Epic was influenced by the Upanishadic thought. But it can be safely stated Upanishadic speculation was the source of inspiration in many instances in later literature. The very basis of social philosophy was laid down in the Vedas in the

<sup>1</sup> Anukramas Parva, 158.

<sup>2</sup> Śānti Parva, 158.

<sup>3</sup> Abhimata Parva, 35.

<sup>4</sup> Bhishma-samvada Parva, 68.

<sup>5</sup> Matsyagandha Parva, 33.

identity of the self and the neighbours,<sup>1</sup> based on Vedic conclusions. Further elaboration and expansion were certainly needed to arrive at the surprisingly advanced social ideas of the Mahābhārata. The conception of popular right was thus fully developed in the Epic period. Its operation through consent is seen in the custom of election and the theory of Social Contract; its safe-guarding will be seen in taxation and revolution.

E. W. Hopkins' remark on the social contract of the Epic deserves some attention in closing this section. There is not the least doubt that this contract with Mann was based on the clear understanding of mutual advantage and reciprocity. But Professor Hopkins says "that the relation is, in a word, trade, as is often candidly said, of 'so much moveable property, for so much protection.'<sup>2</sup> The question is not in reality one of pure trade, although there is involved such an idea of mutual giving and taking, without which no organisation of any type could be carried on, except that of charity, if it could be so classified. Inland in the social contract is the element of the good-will of the people together with a fair suggestion of moral and spiritual responsibility. All this is perhaps due to the special genius of the Hindu Aryans on the Indian soil. Moreover since politics away from society is impossible, the words "gratitude", "worship" and "religious merit" in the text do not seem to be used altogether in vain.

On the other hand the old tradition, from the Rig Veda, of Mann, the patriarch, and his royal seed is kept intact and the equally ancient custom of the Vedic election of kings is theoretically and practically observed in the case of the father of the Indo-Aryan polity, (Mann), who thus becomes

<sup>1</sup> Dharma. *Phil.*, of the Upanishads, p. 48.      \* J. A. O. S. XVII, 1896.

<sup>2</sup> Rig. Veda, I 140, IX, 79; X, 75—Max Müller considers the relationship thus—*India's Kith*, II.

the first elected king in the social contract. Hence the theory had to take into account a number of ideas, before it could be formulated into its Epic shape, and they were all solid and powerful ideas, such as those of tradition, custom and religion. It ought also to be noted that the word "protection" is a technical term in Aryan political science coming down from the *Dharmasūtras* (sacred laws). It includes "favour (reward) and punishment (constraint)" and spiritual good ("expiation").<sup>1</sup>

The Vedic time stands by itself as regards its own political ideas. The achievement of the contract theory in elucidating the principles of popular authority is in no way poor in the Epic and the Buddhist Age. If "the principle of consent.... is the ruling idea of what is now-a-days called democracy",<sup>2</sup> there is in the agreement of the people the explanation of their obedience. In the Epic the people said (agreed) "we shall worship him" (the king) and in the Buddhist canon they accepted the king, as "*rājan*", for pleasing the people, from the root "*raṣ*", meaning "to please."<sup>3</sup> This idea occurs also in the *Mahābhārata* and repeatedly in Sanskrit Literature as a popular standard. The under-current of thought in these two types of consent is that of the common object or good of all in the mind of all, for which the head of the state was needed. This was conspicuous in the Vedic Age in purer theory and although it did not rise to anything like the formulation of the

<sup>1</sup> *Shloka Purāṇa*, 20

<sup>2</sup> Adapted from Webb's *Democracy, Power and Human Life*, p. 145

<sup>3</sup> *Dog's Kotaka*, 3, p. 75. *Rāṣṭrakarmasūtra* Purāṇa 20. *Vāṇa Sūtra*, Ch. I and II and *Indra*, Ch. VIII. *Kotaka*, *Ragha*, Ch. IC. 37. 55. *Śaṅkara* has given a different etymology—The word, *rajan* or *raja*, which comes from *ra* or *raṣ*, means a color and is added to *rajan* *rajan* and *rajan* *rajan*. The derivation is given in later Sanskrit—*rajan* which comes and that which pleases—is merely harmful like so many other derivations of our imaginative poets (*Quint* to Ind. Pol., Mod. Rev., July 1920, p. 77). *Vāṇa Sūtra*, I and VII for details.

"general will", its force was clearly perceived and equally expressed in a quasi-metaphysical way by eloquent figures of speech. It appeared again in the theories of group formation and republican combination.<sup>1</sup> Yet it may be said that the conceptions made for a weak and undeveloped effort at showing the objective mind among the different elements, as is the idealist position. Thus there can be no doubt that within the congenies of the Vedic and the Republican ages a permanent element is always present partly above and partly below the level of consciousness and directly or indirectly guided by considerations bearing on the common good.<sup>2</sup>

The abstract state in the modern sense as "the operative criticism of all institutions" in the language of Rousseau, was perhaps never born in Aryan thought. The approach to such a concept has been taken up with the Philosophy of Dharma (righteousness), as far as it can be embodied in the state from the moral and spiritual standpoint. In Hindu thought Dharma is an all-comprehensive standard applied to Ethics, Politics and Social science. It judges the state itself, which in its own turn represents the condition reached by society in general. It is the unfailing index to social and cultural progress. State control of institutions can in all cases be tested on the touch-stone of dharma, for the state, in order to be good and efficient, must give expression as much as possible to this supreme ideal.

<sup>1</sup> See infra Chap. XIV Group Life and Chap. XV. Republics.

<sup>2</sup> Adapted from Weber's *Religious and Ethical Theory of the State*, p. 125.

## VOX POPULI

Before the abnormal phenomena of revolution and tyrannicide are noticed in the pathology of the state, the place of public opinion and popular voice needs to be considered in relation to the political life of the people at large and the social conditions which support it. Great popular upheavals, whether in the incipient form of mere agitation or in the practical shape of actual rebellion, which gradually produced the dangerous doctrine of resistance and revolution, certainly had a latent or germinal stage in the vox populi in general. But on the question of the exact bearing of such a factor on political theory it is difficult to pronounce in a definite way. Mr. Jayarwal speaks of "the royal solicitude to find out public opinion on royal conduct and administration.....which went to limit the arbitrariness of the Hindu monarch"<sup>1</sup>

Popular voice is recognised in the Vedic records as well as in the Epic and purely secular political literature, sometimes in its weak social expression and occasionally as positive political maxims of great weight and value. It is also connected indirectly with the problem of popular consent in relation to taxation<sup>2</sup> and other state measures of a similar nature, where state authority imposes itself on the total area of society or community life. The simple social aspect or what may be called the "local view", limited perhaps to one community or a small portion of it,<sup>3</sup>

<sup>1</sup> See Intro. to Ind. Polity, Jayarwal, Mod. Rev., Aug., 1913, p. 303.

<sup>2</sup> See infra, Ch. XIII, Prin. of Taxation.

<sup>3</sup> See infra, Ch. XV, Group Life.

can hardly be separated from the limited pronouncements of theocrats and thinkers based upon the general will, for everywhere "public opinion is a harp of a million strings played upon by winds from all directions"<sup>1</sup>. This is specially true of the dim past represented in the Vedic age, and may also be applicable more or less to the Epic period with its many massive streams of political thought, rural individual wills took the field, with their own separate contributions forming different systems like those of the Buddhist and later times.

### General Aspect.

In the earliest (Vedic) social conscience, approbation and reproach in the eyes of men were considered potent factors in the moral judgment of the time. Any person in authority in public or family life, (it cannot be said with certainty which is meant particularly in different contexts), was greatly influenced by these and necessarily prayed that the worse might not fall to his lot before all. Hence social criticism connected with the customs of making gifts, presents, etc., at religious ceremonies and gatherings would be the lowest form of "public opinion" out of which its powerful political counter-part might be said to rise and grow, until the latter becomes an organised force expressing popular will almost as in the modern time.

Some social implications of a public character are illustrated in the lists below in relation to tribal gatherings for sacrificial rites—

{a} Agni, preserve us, thou victor (god) from the honor"<sup>2</sup>

<sup>1</sup> Schneller-Graubius, I, p. 14 ; See Lippmann's *Public Opinion*, p. 144.

<sup>2</sup> Rig Veda, VII. 8, p. 7. Griffith's Trans.



(b) "Yes, many men with hands stretched out, with garland present their gifts, because they dread dishonour".<sup>1</sup>

It appears that there was possibly such a thing as social pressure, which is always an important element in the early stages of society. But this is at a great distance from political public opinion. A few passages are quoted here in order to show that both the positive and the negative sides of popular opinion, however unorganised, conveyed in love and hatred, likes and dislikes, popularity and unpopularity, counted much with those, who themselves governed or managed the government in some way. It has also to be pointed out that it is not yet abstract and objective, so as to be expressed in the form of rules or maxims.

"Give us not up to man's reproach,

To foe-man's hateful calumny,

In thee (god) alone is my strength".<sup>2</sup>

A general opinion, comprising all shades of it from all directions, is quoted here—

"Conquer all evil-hearted ones; make many well disposed to me,...Do thou, O Darbha (charm) make me dear to Brāhmana and Rājanya, dear to Śūdra and to Arya dear, Yea, dear to every man we love, and to every man with eyes to see."<sup>3</sup>

These extracts may have some political import, though it may not be directly available from the context. Their importance cannot be over-rated.

### Political Aspect

Consideration for public opinion from the political stand-point may be said to be very clear in the secular

<sup>1</sup> Rig Veda, X, 206, p. 246. Griffith's Trans.

<sup>2</sup> Rig Veda, VII, 31, p. 31. Griffith's Trans.

<sup>3</sup> Atharva Veda, XIX, 32, p. 303. Griffith's Trans.

writers of the "Arthashastra School". Its absence in the orthodox works (canonical writings) is rather conspicuous. Kautilya's is the earliest notice, while Brihaspati is most pronounced in his view in his own laconic style. In the Sūtra (Aphorism) period, abstract thinking was highly developed, and in Brihaspati's *Polity* (date uncertain) two of the maxims point to the force, which popular opinion succeeded in exerting by that time. Brihaspati has advised the king thus in his chapter on royal duties—

"Even right he should not practise when disapproved by the world. Should he practise it, it should be after recommending it to persons of intelligence".<sup>1</sup>

The great Kautilya in spite of his imperialism manfully averts and that in a positive fashion that—

"It is unrighteous to do an act which excites popular fury, nor is it an accepted rule".<sup>2</sup>

The *Mahābhārata* also reveals the practical phase of the royal conduct by predicting failure when there is popular opposition. With reference to the king's actions it makes most emphatically a general statement that—

"Any person who is disliked by people can never expect to achieve the desired result".<sup>3</sup>

On important constitutional issues, the Epic shows through and sound grasp of the principle of popular approval and support. This is, perhaps, the best statement of constitutional practice found in the whole range of Hindu political literature. It is said that after a resolution has been passed by the preceptor and three ministers the king should refer it to the public for approval.

"When the preceptor having heard the four (the king and the three ministers) from beginning to end

<sup>1</sup> *Brahmagui Sūtra*, I. 4 p. 16.

<sup>2</sup> *Artha Śāstra*, p. 317.

<sup>3</sup> *Śāstrī Pura*, 86.

has lived a conclusion, it should be carried out into action by the king, on condition that it is approved by the general public".<sup>1</sup>

Both Kāmandaka and Śakra are careful in treating the subject of popular pleasure and displeasure in conformity with the interest of the state. Śakra agrees with Brihaspati in holding that even moral principles have to be suspended before popular opinion on prudential grounds—

"An action which is religious, but disapproved by the people does not lead to heaven".<sup>2</sup>

Kāmandaka also remarks almost in the same strain—

"That is injustice the execution of which is denounced by them, (i. e. venerable people)".<sup>3</sup>

Hence his advice to the king is that—

"A king should win the good-will of the public, and he should not excite the anxiety of his subjects".<sup>4</sup>

Here he is at one with Kaṭilya in seeing the danger in popular anger. Moreover he lays down the rule in general that "public opinion",<sup>5</sup> and the "opinion of the world",<sup>6</sup> should be very carefully gauged by means of spies sent out for the purpose. Kaṭilya is also elaborate on the spy-system in the state service,<sup>7</sup> but he is not so explicit on the point of public opinion, as on the dangers to the state. Public opinion, as a matter of course, means greater organisation of society as a whole. Kāmandaka, it must be admitted, had occasionally more advanced democratic ideas than his master,—thanks to the progress of time—his main theory being :—

"Royal prosperity depends on the good-will of the multitude".<sup>8</sup>

<sup>1</sup> Ind. 55.

<sup>2</sup> Śakra III, p. 107.

<sup>3</sup> Śakra 58a, p. 58.

<sup>4</sup> Ind., p. 426.

<sup>5</sup> Ind., p. 155.

<sup>6</sup> Ind., p. 157.

<sup>7</sup> For the spy-system of Kaṭilya see his Artha Śāstra, pp. 26-27.

<sup>8</sup> Śakra 58a, p. 57.

Śakra's injunction on the question of popular opinion is plain and simple. It is mainly that—

"One should consider.....popular opinion".<sup>1</sup>

It is a general statement on the face of it, like the one of the Mahābhārata and includes kings and other individuals. Therefore kings must take special care to appoint officers "who enjoy the confidence of the people"<sup>2</sup> and—

"He should dismiss the officer who is accused by one hundred people".<sup>3</sup>

Again—

"He should take the side not of his officers but of the subjects".<sup>4</sup>

The hundred men standard is a remarkable test in Śakra's system for the validity of vox populi as well as for its power. It may seem to be in certain respects crude, but nothing is a better indication on the part of authorities that popular opinion is really respected and sought by them in the conduct of affairs, than the criterion of the similarity of demand from a good number of men. This is enjoined, it appears from the nature of the case, to guard against an event like the "three tailors of Tooley Street trying to represent the whole of England". Professor Sarker's note in his translation of Śakra-Nīti has stretched this standard too much.<sup>5</sup> It has been critically examined in Note 3 of the Appendix.

Kāmandaka has similar instructions that persons "who have incurred public displeasure should be done away with",<sup>6</sup> and a "wise monarch should pacify disaffection".<sup>7</sup>

<sup>1</sup> Śakra Nīti, p. 138.

<sup>2</sup> Ibid., p. 227.

<sup>3</sup> Ibid., p. 23.

<sup>4</sup> Ibid., p. 21.

<sup>5</sup> Sarker's Trans. of Śakra Nīti, p. 51. See Note 3 in Appendix.

<sup>6</sup> Nīti Śāstra, p. 65.

<sup>7</sup> Ibid., p. 218.

It is worth noticing here that the part played by consent in taxation, in election and deposition of kings, and even in resistance and revolution, is intimately associated with *vox populi* in its representative character. Consent, being one of the basic principles, appears prominently in connection with all constitutional practices in every age in ancient India.

## CHAPTER VI

### DOCTRINE OF RESISTANCE AND REVOLUTION

This doctrine turns on two hinges—Administration and Taxation ; any dislocation of them affects the whole system based on recognised and accepted law and custom. It is difficult to fix definitely the legitimate limits of Resistance and Revolution, so as to point out definitely the exact nature of their operation, beyond which both would be termed illegal and unconstitutional. Mr. Arambode Ghose holds that "any prolonged outbreak of autocratic caprice, violence or injustice seems to have led before long to an effective protest or revolt on the part of the people".<sup>2</sup> No more than a general statement and criticism of the doctrine can be attempted here in the absence of the data, historical and theoretical, for any detailed treatment.

Resistance in general is taken up first as it means thwarting authority that tended to be autocratic or more than what could be supported by popular tradition, custom and law concentrated and preserved in the state. Undue taxation naturally comes later for theoretical treatment,

<sup>2</sup> A Defence of Indian Culture, Arambode Ghose, Calcutta, 1926, p. 135.

being only a specific case of mal-administration or unconstitutional procedure, which went against popular rights and the democratic principles laid down constitutionally. Though it seems probable that arbitrary taxation usually supplied the first practical cue to popular movements against the king or the government, nothing can be definitely stated as to the most prominent and powerful of the causes of revolution. Many instances are available of misrule, over-taxation, and high-handedness for which kings were fully and condignly punished. Khallistira, Puruṣa, and Vena are examples of each of the types.<sup>1</sup> Plenty of similar instances are cited in Kaṭilya and Śakra.<sup>2</sup>

### Resistance to High-handedness.

#### *In the Vedas*

That tyranny and oppression of any kind were against the grain of early Aryan society and were naturally disliked and opposed by the people, in view of their age-long political outlook, is seen *prima facie* in the records of the Vedic and Epic deposition and expulsion of the arbitrary rulers.<sup>3</sup> Such contingencies were perhaps necessitated in their political life by things going against hoary customs or traditional laws, when such things could not on any ground be reconciled with their habits of thought. In fact their political thought, as that of any nation or community, had its own precedents as well as a more or less rigidly-formed back-ground against which comparisons could be possible and exceptions were made or taken. Notable examples of good government were extolled in religious as well as secular literature. The Vedic ideal is that under which the people "happily thrive" being given

<sup>1</sup> *Adamaśa, Eda, Śāstī Puruṣa* cited in Note 2 on Election in Appendix.

<sup>2</sup> See Ch. VII. *Devīa Śāstī* and Note 2 on Election, Appendix.

<sup>3</sup> See Supra, Ch. IV, on Political Authority, and Note 2 in Appendix.



"Let not the sinful tyranny of any fiercely  
hating foe

Smite us, as billows smite a ship.  
O Agni, god, the people sing reverent praise  
To thee for strength".<sup>1</sup>

Such a united prayer for strength by the people cannot but indicate a popular upheaval spelling firm determination to resistance. The terms "tyrannous", "oppressive", and "tyranny" in the quotations allude to things positively disliked by the people. The expressions used against any warring and conquering enemy are equally strong and vehement, and are backed up alike by religious sentiments.

A prayer to Bṛhaspati shows how the people never liked to be under an undesirable man and therefore wished for his death. It is most probably a case where their own efforts could do nothing and were ineffectual.

"Let not the guileful wicked man be lord of us,  
Still may we prosper singing godly hymns of praise.

Who so with mind ungodly seeks to do us harm,  
Who deeming him a man of might and lord,  
would slay,

Let not his deadly blow reach us, Bṛhaspati,  
May we humiliate the strong ill-doer's wrath".<sup>2</sup>

But a much stronger appeal is found in the Atharva Veda, though the spirit is the same as well as the object. A whole hymn in this Veda gets a prayer for overthrowing the oppressor together with his dominion. Very likely according to the belief of the time in the efficacy of reli-

<sup>1</sup> RV. VIII. 34, p. 234.

<sup>2</sup> Rig Veda, II. 34, 31-33; Griffith's Trans., p. 232.

<sup>3</sup> "Mā sa Bṛhaspatir aśvīnīpātrāṇi prapāṇāṇi vāṇāṇīkṣīrāṇīkṣīrāṇī",  
(Lahiri's Ed. p. 495. Lat. Vers.). Cf. Macdonell's Text, p. 232.



glorious rites turned to the fulfilment of objects, a sacrifice was held for the purpose of giving strength to and gaining success for popular demands. The prayer itself is called the "thunder-bolt" just as George Herbert named prayer "reversed thunder", and the power of universal cosmic law is supposed to supply the necessary potency

"This thunder-bolt shall take its fill of order,  
Scare life away and overthrow the kingdom,  
Tear necks in pieces, rend napes sunder,  
Even as the Lord of might the neck of Vritra,  
Down down beneath the conqueror's let him not rise,  
Concealed in earth, but lie down smitten with  
the bolt.

Seek out the oppressor, ye,  
Strike only the oppressor dead,  
Down on the fierce oppressor's head,  
Strike at full length, O Thunder-bolt!"<sup>1</sup>

It is just one of those instances of taking to supernatural methods frequently found in the Atharva Veda. When ordinary means failed utterly, or at least proved to be futile, the primitive mind tried to fall back on magic &c., or what seemed to them an unknown and inexhaustible spiritual power. In fact the nature of man seeks the supernatural exactly in cases of disappointment and despondency.

### In Sacred Law

Unlike Vedic thought, orthodox canonical writing on this topic are scientific in method as well as didactic in tone, compared with secular political literature, some of which are earlier productions. They have the advantage of being the authoritative pronouncements of the most

<sup>1</sup> Atharva Veda, VI 124, p. 220. Griffith's Trans., and Note.

widely accepted school of social thought standing next to the universally recognised sacred books. Manu and Yājñavalkya are important representatives in the field of canonical legislation, who take precedence naturally on the ground of their traditional position and the subject matter of their works. Manu, as a legislator, deals with tyranny and oppression in a thoroughly radical fashion in his sacred institutes. Immediately after taxation, which is naturally the first and surest test for authority, tyranny is taken up for treatment. The famous law-giver sees in it the great danger of moving popular anger and setting it adrift in the long run—

"As the lives of living beings perish through the torture of the body, so the lives of kings are also destroyed through torturing the kingdom".<sup>1</sup>

Tyranny according to Manu means in some way or other letting loose the forces of destruction involved in revolution. His commentator, Kulluka Bhāṭṭa, explicitly states it to be "the anger of the people", which is only implicit in the original text, but he does not specify the expression of such anger or its particular cause. All sorts of oppression are included in the word "torture" as a generic term and it is perhaps the strongest that is available in Sanskrit vocabulary. The physical body and the body-politic both give way under such torture resulting in the death of the individual and of the ruling head.

Yājñavalkya Smṛiti, which is considered important after Manu's Code, is equally trenchant in its radical and independent thought, although it must be admitted that

<sup>1</sup> Manu Smṛiti, VII 172.

"Śarīrāntarāntāḥ prajāḥ kalyāṇāḥ pāpāntarāḥ yathā

Tathā rajāḥśreyāḥ prajāḥ kalyāṇāḥ narakāntarāḥ"

(2) Nyāyadarśin's Ed. p. 370) See S. R. E., Vol XXXV p. 133—

Baker has "torturing."

such principles are never expected ordinarily in canonical politics. Yājñavalkya might have drawn on the same sources as Manu, and used the legal traditions of the past.

His law on tyranny is—

"The fire engendered by the grief consequent on the oppression of subjects does not return without consuming the family, prosperity and vital airs of the king".<sup>1</sup>

Even in the south Tiruvalluvar kept up the Sanderkio tradition and outlook. He was didactic like the ancient law-givers and condemned the high-handedness of monarchs in his salutable maxims. He was also prophetic and outspoken and used the strongest terms about such rulers—

"Behold the prince, who oppresseth his subjects and doth inequity: he is worse than an assassin. Behold the thoughtless prince, who swerveth from the ways of justice: he will lose his kingdom and his substance also. Behold the prince, whose cruelty is a by-word among his people: his days will be shortened and he will perish forthwith."<sup>2</sup>

### In the Great Epic

The Mahābhārata is more thorough and shows two sides of resistance, negative and positive: the former is seen in desertion and the latter in opposition. In one case it is like passive resistance,<sup>3</sup> while in the other it assumes the character of active subversion of the state. After the general statement that "the oppressing king vanishes like the lightning",<sup>4</sup> it is worth considering what the Epic

<sup>1</sup> Yājñavalkya, 30, p. 80

<sup>2</sup> Tamil, pp. 115, 116.

<sup>3</sup> See Taha, detailed treatment.

<sup>4</sup> Śaun Tīrta, 120

goes on to advise, probably as the mildest measure or the minimum action, on the authority of the school of Prachetas Manu—

(a) "An unprotecting king, a bad-tongued wife, a silent teacher, a wandering shepherd.....should be deserted like a leaky vessel in the ocean".<sup>1</sup>

Again—

(b) "A bad king, a bad country, a bad wife, a bad son, &c., should be deserted by all means. For in a bad king's realm there can be no happiness and in a bad country no living, no love in a bad wife, no trust in a bad son &c."<sup>2</sup>

(c) More definitely—"that king should be deserted, who takes to actions against righteousness under the influence of bad time and against good advice".<sup>3</sup>

But the thing does not end here, although it might be said that the above prescriptions are in keeping with the essentially Hindu spirit of noble "ahimsa" i.e. non-injury. The political school of Śibi advises more drastic operation as the right antidote to misrule and arbitrary government. It is positive revolution and tyrannicide—

(a) "The king, who does not care (properly) to discharge the duty of protecting the people, having accepted such responsibility, should be destroyed by all like a rabid dog".<sup>4</sup>

Another political thinker Vāmadeva cited in the Ityic authorises the same procedure under like conditions, agreeing with Prachetas Manu—

<sup>1</sup> Ity., Cf.      <sup>2</sup> Ity. 110, Cf. Śāstra Sūtra, p. 20      <sup>3</sup> Śāstra Sūtra, 10

<sup>4</sup> Anuśāstra Sūtra 41—

"Kṛtsv kṛtsv rājāyāḥ yaḥ na rājāḥ bhīṣṇaḥ

Na rājāyāḥ rājāyāḥ bhīṣṇaḥ bhīṣṇaḥ bhīṣṇaḥ"

(Śibi's dog!!) reads even the meaning of "by all means")

(b) "That unrighteous king, who acts under the influence of sinful ministers, should be killed by all, for he deserves to be slain together with his whole family".<sup>1</sup>

(c) "They (kings) have no right to live, who do not protect people".<sup>2</sup>

The growth of revolutionary social and political thought evidently reaches its climax in the Epic age in the *Mahābhārata*. And although it cannot with certainty be stated how far it owes its origin and strength to the contract theory, yet the palpable breach of contract is easily and clearly seen to function in the production of popular decisions against the government. The phrases "having accepted such responsibility" and "under the influence of sinful ministers" prove that the state was going against the (explicit or implicit) expectations of the people and as such, against the constitution based on law. To interpret such law to mean tyrannicide is equal to prescribing punishment for breaking an understood contract. No other explanation is possible from the texts to point to a different conclusion for the stream of the revolutionary tendency which found its culmination in the great Epic. Śukra and Medhātithi bear the stamp of such ideas of the Epic, slightly modified by the canonical orthodoxy of the sacred law. They are to be noticed below after the purely secular thought in the *Artha Śāstra*, the *Nītiśāstra* and the *Śūtra-Nīti*.

<sup>1</sup> *Śāstra* Purāṇa, 93.

<sup>2</sup> *anti-pāpābhāvanāya (śikṣā) mātṛya bhāratya āśramānta  
śāstraṃ parivṛtta bhāratya-āśramānta*."

NTWanglik has explained the phrase "anti-pāpābhāvanāya" as  
"anti-pāpā bhāratya pāpābhāvanā mātṛya parivṛtta (śikṣā) Bhāratya Śāstra p. 24."

<sup>3</sup> *Ibid.* 26.

## In Secular Politics

A large number of references to sedition, treason, and revolutions abounds in uncanonical political literature. Kautilya's *Artha Śāstra* is very particular in showing the Imperialist's careful attention to such dismember in the state.<sup>1</sup> Professor B. K. Sarkar has pointed out Kautilya's sharp and condemnatory diagnosis that "the wrath of the people is the ugliest and the most dangerous of all wraths".<sup>2</sup> And indeed Kautilya says that—

(a) "A wicked king will surely destroy the most prosperous and loyal elements of his kingdom. Hence a king of unrighteous character and of vicious habits will, though he is an emperor, fall a prey to the fury of his own subjects....."<sup>3</sup>

(b) "Kings given to anger (i.e. going beyond their limits) are said to have fallen a prey to popular fury."<sup>4</sup>

Again at another place he gives the warning that—

(c) "Disloyal and indifferent subjects will endeavour to destroy even a strong king"<sup>5</sup>

Kautilya's tone, it is to be observed, is like that of Manu in being didactic rather than categorical. Both view the subject of popular fury or even popular rising

<sup>1</sup> *Artha Śāstra*, pp. 16, 148, 207, 308.

<sup>2</sup> *Pol. Theo. & Inst. of the Hindus*, p. 101.

<sup>3</sup> *Artha Śāstra*, p. 232.

"Yavāśvatośchakravartīśchakrapatīpṛthivyānāṃ  
 Tātāśvatośchakrapatīpṛthivyāśchakravartīpṛthivyānāṃ  
 Hāpṛthivyānāṃ pṛthivyāpṛthivyānāṃ pṛthivyānāṃ."

(Kautilya's Text, p. 228).

<sup>4</sup> *Artha Śāstra*, p. 207.

<sup>5</sup> *Ibid.*, p. 246. For "indifferent" "indifferent" seems to be the better reading.

from the standpoint of the head of the government rather than that of the people. Both are royalists of the first water; the canonical and secular views agree in this here. The conclusion of the author of the great *Artha Śāstra* is the general assertion that—

"Vice over-whelming righteousness will in the long run destroy the ruler himself."<sup>1</sup>

Thus even the Machiavellian principles of this political thinker give way before the solid facts of life, not infrequently experienced by him in his career as one of the greatest of practical politicians, and at length consistent thought forces him to arrive at theories of the greatest depth and highest vision.

Another key of the same scale is touched by Śūdra, whose practical wisdom is a hand-mark in Indian social and political science. He lays down the general rule that—

"The monarch who follows his own will is the cause of misery and soon gets estranged from his kingdom and alienated from his subjects."<sup>2</sup>

It follows from this all-round statement that in a monarchy the king's will was not supreme but limited, and estrangement and alienation were the results of out-stepping the bounds of authority deputed to the ruler. Śūdra advises the people under such circumstances to give the ruler a chance to correct and rectify himself. This is obvious from the spirit of the following passage—

"When the king is addicted to immoral ways, people should terrify him by taking the help of virtuous and powerful enemies."<sup>3</sup>

It seems possible that any unusually self-willed procedure on the part of the ruler is alluded to here and not

<sup>1</sup> Ibid., p. 242.

<sup>2</sup> *Śūdra Sm.*, II. 7-8, p. 55.

<sup>3</sup> Ibid., p. 187.

simply bad character, which may be taken to be the meaning on the surface. The word "immoral" has the force of "illegal and impolitic" since the very next passage reads—

"So long as the man is virtuous, only so long is the king, otherwise both the king and the people are ruined."<sup>1</sup>

Quite a number of things is included within the word "virtuous" on which the common good is said to depend. Professor B. K. Sarkar has a note here that "It is in this way that neighbours influence and greatly modify the internal politics and conditions of states."<sup>2</sup> Thus the king's immoral ways are more than those limited to his own self, affecting, as they do, the prospects of the body politic. It is after the failure of such means, as those resorted to by the people, that revolution is recommended, but not in accordance with the Epic prescription. Śakra's humane attitude sets in deposition enough antidote to the arbitrary tyranny of unprincipled despotism, and tyrannicide is unnecessary.

"If he be an enemy of virtue, morality and strength people should desert him as the ruler of the State. In his stead the *prabritā* (ministers or people) should install one who belongs to his family and is qualified."<sup>3</sup> The admirable considerations of the writer of the *Nṛsi* is not unworthy of Aristotle's politics and shows the breadth of his views as well as the independence of his thought. To him "reposition is folly"<sup>4</sup> in all spheres, moral, social and political.

A spiritual touch marks out Kāmandaka's attitude, who closely follows Kautilya as his master and looks at the

<sup>1</sup> Ibid. p. 116.

<sup>2</sup> Śakra *Nṛsi*, p. 117. Instances are also Ch. XVIII the Election of Harṣa.

<sup>3</sup> Ibid. p. 11.

<sup>4</sup> Ibid. p. 120.



subject of popular movements almost from the same angle of vision. He makes a special contribution by pointing out how *skilful* ways of the head ultimately lead to the destruction of the state through gradual loosening of supports. Like Śakra, whose sanity is simply remarkable, he is conspicuous for giving a spiritual colouring to the subject under treatment. His very comparisons are permeated with religious ideas. His standard though not so high as that of Śakra, is yet highly refined at least in reading the danger-signal in state matters—

"The status of royalty (a).....like sacerdotal dignity; it is blotted with stains by any the slightest transgression."<sup>1</sup>

And then he proceeds to show how people naturally desert the king, when he is below their proper estimate in much the same didactic time, as that of Kaupilya's *Artha Śāstra*—

(a) "A king with a wicked counsel is seldom approached for protection (by people) like a sandal tree begirt with snakes."<sup>2</sup>

(b) "Like the rain-cloud, a king should be the source of subsistence to all creatures: when he is not so, he is forsaken by his people, just as a withered tree is forsaken by birds."<sup>3</sup>

In the last analysis it is only a kind of passive resistance, similar to what has been noticed from the *Mahābhārata* later on, without the definiteness and precision of the Epic. But still Kaṇvadaka has his own suggestions to make from the spiritual standpoint and although he does not directly advise the people to take up arms and revolt and bring down the state, he sees clearly the logical and unavoidable results of persecution and oppression. His warning is therefore based on spiritual considerations, his argument

<sup>1</sup> *Nai. Śāstra*, p. 179.

<sup>2</sup> *Ibid.*, p. 81.

<sup>3</sup> *Ibid.*, p. 80.

indirectly being that ruin surely comes through popular actions, as the effect of sin on the part of the head :—

"Persecution (of the people) can never bring about prosperity, as it breeds sin through which a monarch meets with his fall," for punishments unjustly inflicted "excite anger even in those who have retired to the forest as ascetics."<sup>1</sup>

This moral retribution is true and certain even out of a single insignificant case, since the moral law can never fail. Are not revolutions said to start from small causes out of great grievances for mighty principles? Kāmandaka sees this when he lays down as the *Kural* that—

"Even a poor man persecuted by the king kills the latter by means of his grief."<sup>2</sup> Verily it is the tears of those groaning under oppression, that wear away the prosperity of the king.<sup>3</sup>

It is anything unlawful and arbitrary that is supposed to work against the texture of the state and ultimately brings it down either through alienation or through opposition—the sure symptoms of irresponsible procedure. Further it is added that—

"Even slighting people may jeopardise the safety of the king's life."<sup>4</sup>

Consequently the author of the *Nīti Sāra* makes the general pronouncement as follows :—

"A worthless and unjust monarch carrying his prosperity to the very zenith meets with destruction even during his (apparently) sunny days."<sup>5</sup>

But Kāmandaka also has a drastic prescription for corrupt and unprincipled kings addicted to vicious ways. This is

<sup>1</sup> *Nīti Sāra*, p. 78.

<sup>2</sup> *Ibid.*, p. 36.

<sup>3</sup> *Kural* p. 117.

<sup>4</sup> *Nīti Sāra*, p. 80.

<sup>5</sup> *Ibid.*, p. 45.

called the method of "Naiika", as the last means. In Verse 55 of section V, he says "In order to recede him they (people) should have recourse to Naiika", which according to his commentator includes "punishment or open attack" among other items, such as conciliation, gift and reparation".<sup>1</sup> Naiika literally means an instrument of success against an enemy.<sup>2</sup> Śakra's use leaves no doubt about the import of Kāmandaka's method.

An unexpected yet nonetheless important side-light is thrown by Medhātithi, the most famous among the commentators of *Manu Smṛiti*. He endorses revolution under the most unlikely context of a section of *Manu's* laws on the ground of common object and interest. Practically he calls in question the authority of the king representing the state to destroy any one, who goes against the government for a right cause. The particular code under reference is *Manu's* VII, 12, which runs as—

"The man, who in his exceedingly folly hates him, will doubtless perish, for the king quickly makes up his mind to destroy such a man."<sup>3</sup>

This is evidently the law relating to rebellion and treason, but Medhātithi puts in a definite limitation and observes that—

"This injunction applies when men seek the kingdom out of sin (sinful motive), but not when they do so out of longing for a desired object."<sup>4</sup>

The object palpably means the unsuccessful redressing of standing grievances. The commentator was in this

<sup>1</sup> p. 27

<sup>2</sup> Śakra has used the word, "naiika" in the sense of a few men or gṛha (*Śakra* XII, p. 208). It is also mentioned in the *Mahābhārata* as a weapon of war, but the meaning is not clear there. (*Udyoga Parva*, 81, Bengali Ed. p. 171). <sup>3</sup> Cf. also *Śaṅkī* Parva, 32.

<sup>4</sup> See Medhātithi's Ed. II, p. 700 | *Hist. of Hindu Pol. Theory* p. 241.

connection the phrase—"śāntya-rāja alidharmas"—by application to the incapable king. It is under a closed option that such a course is advised. Dr. Ghosh thus remarks on *Medhātithi*—

"Rebellion is justified provided it is based not on the lust of power but on what may be called 'the will to sovereignty.' This startling doctrine is characteristically supported by the plea of the public good, and involves a deliberate modification of the canonical doctrine (viz. that of *Mānu* and others) relating to the submission of the subjects."<sup>1</sup>

### Religious View

Again both *Mānu* and *Yājñavalkya* apply religious ideas to politics and social science in the usual Canonical strain of the sacred laws. Unfairness of any kind is noticed by them socially as well as religiously. They point out the solid face of a spiritual principle underlying the royal administration of justice and its failure is threatened with loss and punishment even in the next world.

(a) "Improper administration of punishment leads to the destruction of (the attainment of) the celestial and other regions, and of fame (in this world)."<sup>2</sup>

(b) "If the king punishes the innocent and does not punish the offenders, the result is ill-fame (in this world) and hell in the next world."<sup>3</sup>

### Resistance to Over-taxation—In the Vedas

Traces of the spirit of keen resentment are found in the *Rig-Veda* against over-taxation or illegal and forced levy, or what in principle would tantamount to the state overstepping its delegated authority. Even in case of conquest,

<sup>1</sup> *Ibid* p. 343    <sup>2</sup> *Yājñavalkya*, 257, p. 87.    <sup>3</sup> *Mānu*, VIII, 129 p. 409

It would be taxing beyond popular endurance and against popular consent. A passage like the one quoted below clearly shows the feeling of temporarily impatient rage at unremedied 'law's delay.' The religious power of the rite of sacrifice is as usual invoked here—

"..... Free us from the tax....."

Ascend to the celestial height, the heaven, where

Tribute is not paid to one more mighty by the weak."<sup>1</sup>

It may mean, as has been already observed above, the tax imposed after conquest, but there is no doubt that it was against the popular will, which certainly under suppression waited for the flash-point. Perhaps this, together with other kinds of oppression, led to the deposition and expulsion of kings noted before in the preceding pages.<sup>2</sup> Compared with the attitude against tyranny in general, the tone of this passage is more pathetic and decidedly more restrained, the difference being due perhaps to special circumstances of the time.

### In Sacred Law

Not infrequently was undue taxation made the root cause of the revolutions. Sacred and secular schools are both agreed on this matter, and sacred writing is unexpectedly strong. The code of Manu is explicit on this type of oppression and so is the Mahabharata. Manu's significant admonition is as follows —

"The king, who through excessive foolishness arbitrarily tyrannizes (i. e. draws, extorts) over his state, has soon to lose his kingdom together with his own life and family."<sup>3</sup>

Vyāsaśastrya has also noticed illegitimate demands by

<sup>1</sup> Atharva Veda, III 28, Griffith's Trans.

<sup>2</sup> See Gupta, Popular Authority Ch. IV.

<sup>3</sup> Manu Smṛiti, VII, 111. See S. B. E. Vol. XXV, p. 245—Baker is not explicit here.

the king, and is not different from Mann in this respect. His law on over-taxation is—

"A king who multiplies his treasury by unfair taxation from the kingdom, is in no time shorn of prosperity and meets with destruction along with his own people (relatives)."<sup>1</sup>

The commentaries on the *Manu Samhitā* throw some light on the subject and *Manu's* treatment in particular. The commentator *Kullūka Bhatta* explains the word 'arbitrarily' used by *Manu* above as "taxation against law" and the cause for the disaster is accordingly "the wrath of the people."<sup>2</sup> No mention is made of the particular mode or modes of such a revolution. But it is more than probable that this is parallel to "no taxation without representation", since the *Brāhmanas*, as the leaders of the people, were the makers of all laws, including those on taxation."<sup>3</sup> Further elucidation is set under the Principles of Taxation, forming a separate chapter.

Another commentator of the same book, *Medhātithi*, whose independence and originality of thought are quite conspicuous in many respects, had pointed out though in a different connection the futility of paying taxes when its object is not gained. His *Hampden-like* attitude is seen in the passage below—

"By seeking redress from an incompetent king, payment of the king's judicial dues (in the shape of taxes) becomes a waste of money."<sup>4</sup>

Its implication is unmistakably clear, for the stoppage of tax-giving necessarily precludes armed rebellion and sub-

<sup>1</sup> *Yāgyavalkya*, 102, p. 42.

<sup>2</sup> *Kullūka's Commentary*, p. 323.     <sup>3</sup> *Manu*, VII, 201 = *Sansk. Purva* 77.

<sup>4</sup> *Medhātithi's Ed.* II, p. 762. Also quoted in *Shankar's Hist. of Hindu Pol. Theor.* p. 241.

vision of the state and the justification can be easily subsumed under Medhātithi's former reasoning and sanction, viz., "a desired object" in the interests of the people. There is hardly a more consistent and bold and at the same time logical view of taxation than that of Medhātithi in the whole range of Indian political literature. He has indeed put his finger on the very sore spot of the body-politic from which poison and death concretely arise.<sup>1</sup>

### In the Epic

The great Epic is equally emphatic against illegal and irresponsible taxation, and here its extreme radicalism looks for the only available remedy, that lies in the most drastic measure of combined resistance, sweeping revolution and ultimate execution of the unpopular despot. It has been already seen that the politics in the Epic is marked by a tendency to indefinite popular absolutism and its source is evidently the compact idea underlying political and social organisations. Taxation is apparently and practically the prime factor, on which the economic side of the post is based and hence it is the most powerful expression of authority on both the sides of the contracting parties. Its abuse is keenly felt and glaringly noticed. So the Mahābhārata sounds the timely warning—

(a) "The king, who collects money according to his own will without consulting others about sacred law (on the subject), can never succeed in prospering for ever".<sup>2</sup>

<sup>1</sup> N. S. Both Kufalik and Medhātithi have been put here in order to connect them up with Manu whom Lawu they have commented on. Their dates would be c. 300 A. D., while that of Manu is c. 300 B. C.

<sup>2</sup> See Ch. IV, Popular Authority, Social Contract Theory above.

<sup>3</sup> Śaṅk. Parva, 78.





popular wealth, impoverished the nation ; hence it reacted on the state itself in the long run and brought about disaffection and disaster, and more than all these, consequent weakness and dwindling in general. He has laid down the broad economic principle that—

"An impoverished people are ever apprehensive of oppression and destruction (by over taxation etc.) and are therefore desirous of getting rid of their impoverishment or of waging war and of migrating elsewhere"<sup>1</sup>

On the king's side, it is advised—

"Hence no king should give room to such causes as would bring about impoverishment, greed and disaffection among his people".<sup>2</sup>

Thus his analysis goes on step by step in showing how the causal connection is present in every element of action and reaction—

(a) "When a people are impoverished they become greedy, when they are greedy they become disaffected ; when disaffected they voluntarily go to the side of the enemy or destroy their own master".<sup>3</sup>

Again—

(b) "When the dwindling of the people is due to the want of gold and grain it is calamity fraught with danger to the whole of the kingdom".<sup>4</sup>

In summing up it may be stated as Kautilya's general position with regard to the question of popular resistance to unsanctioned taxation that—

<sup>1</sup> Artha Śāstra, p. 343. "Kāṇḍikā pūjanacchedanābhāgāt anābhāgībhīḥ / yābhāgāt anābhāgībhīḥ yābhāgībhīḥ (S. Kautilya's Treat., p. 373).

<sup>2</sup> Ibid. p. 343.

<sup>3</sup> Ibid. p. 341.

<sup>4</sup> "Kāṇḍikā pūjanacchedanābhāgāt anābhāgībhīḥ / yābhāgāt anābhāgībhīḥ yābhāgībhīḥ (S. Kautilya's Treat., p. 373).

<sup>5</sup> Ibid. p. 341. <sup>6</sup> Ibid.

(Kautilya's Treat. p. 373)



is there any way open for connecting the two kinds of despotism, so as to bring them under his recommendation for deposition, except in the most general fashion.

The general moral advice of Kāmasūdra on the subject of taxation is a mere warning against the king's own covetousness. He classifies this under the "five apprehensions" to the subjects, but he does not suggest any suitable remedy.<sup>1</sup> All the same it is an apprehension and is thus one of the sources of danger to the state. When the king himself becomes exacting, who is expected to take the side of the people? Thus the possibility of such an event was to be guarded against by all means.

### Passive Resistance

A type of Passive Resistance against undue procedure and illegal taxation is seen in the practice of leaving the country, where such injustice happens, contrary to the expectation and wishes of the people and particularly of the traders. Being naturally wealthier than the common people, they choose to retire into the woods, probably beyond the jurisdiction of the king and his officers in order to avoid molestation and enforced payment.<sup>2</sup> Mr. Arambé Ghose observes that "another more peaceful and more commonly exercised remedy was a threat of secession or exodus, which in most cases was sufficient to bring the delinquent ruler to reason".<sup>3</sup> It is not merely a case of migrating into another state, but living free in the forest without paying any tax to anybody. This love of freedom meant great hardship and privation in many cases as will be seen in this account. The contagion as a matter of fact drew other people into the company of the passive resisters, and the support of sacred

<sup>1</sup> See *ibid.*, p. 41.

<sup>2</sup> *Śāpādharmasūtra* Parva, 87.

<sup>3</sup> *A. Det. of Ind. Cul. Assn.*, Oct., 1930, p. 170.

writing was not wanting, when there were definite pieces of advice to desert the unrighteous king and his kingdom already noticed in the section on royal high-handedness.<sup>1</sup>

The Mahābhārata has the caution that—

"When the 'gossins' (the trading classes) are banished, they leave the country and live in the forest. The king should therefore treat them well.... and tax them moderately",<sup>2</sup> and also wish—"May not the cultivators, being oppressed, leave the kingdom".<sup>3</sup>

This is illustrated fully in the description of the Gaṇḍarīpāṇa Jitaka "of the land ruled by an unrighteous king and plundered by his officers". An extract from it is given below—

"Oppressed with taxes the inhabitants lived in the forest like the beasts with their wives and children. Where there was once a village, no village stood there any more. The men could not, for fear of the king's people, live in their houses. So they surrounded their houses with hedges and went to the forest. In the day the king's people plundered and at night the thieves".<sup>4</sup>

In the ancient times the forest was to them like the continent of America sheltering those who fled from their native place for the sake of the freedom of conscience. Here is, in short, another "deserted village" full of that pathos for which Goldsmith is justly famous. The Jitaka has told the tale in its own primitive style, but there is in it all the elements of the natural love of freedom in face of helplessness under oppression.

<sup>1</sup> *Supra*, on High-handedness.

<sup>2</sup> *Rajadharmaśāstram* Parva, 85. Mahābhārata has given the meaning of the word 'gossins' as 'vaidya'. (Dharmya Ed. P. 85). Cf. the English words "gossamer" and "gossamer" and the Scottish word gossamer.

<sup>3</sup> *Ibid.*, 86.

<sup>4</sup> Fick's Social Organisation, Dr. Müller's Translation, P. 121.

## General View

Both in the North and in the South, the common attitude towards unworthy and unfit monarchs was one of unqualified condemnation. They never misused matters in this field, but considered government by such rulers as an intolerable weight on the nation and the country. It was certainly grounded on consensus of opinion, since it was expressed in a general way, leaving room for actual conditions. Thiruvalluvar pronounced that—

“The tyranny that yokesketh itself to charlatans is the only burden under which the earth groweth; there is none other beside”.<sup>1</sup>

The Tamil sage was fully aware of the danger produced by such a state of affairs and by calling it a burden has shown the depth of his experience as well as clarity of thought and voiced a sentiment shared by all. The unbearable character of misrule is laid bare and its wretchedness indicated.

The *Mahābhārata* has put the same idea in a poetic garb and its implications are not different. First of all the earth is personified and then she is made to say,—

“That an unrighteous king should ever rule me—this I shall never be able to bear (tolerate) by any means”.<sup>2</sup>

The context shows that she was running away for the very fear of being under unworthy kings. It is only a figurative assertion of positive popular disaffection clothed in epic language. Such declarations were truly the indications of social temperature and pressure and signals for action, when the burden proved to be beyond toleration. And it was but natural to think of the removal of what

<sup>1</sup> *Kural*, P. 120.

<sup>2</sup> *Mahābhārata*, Parva, 53.

was generally felt as a burden by all. To this should be added the pithy summary of Mr. Arambhoo Ghose that "There could be ordinarily little or no room in the ancient Indian system for autocratic freak or monarchical violence or oppression, much less for the savage cruelty and tyranny of power so common in the history of some other countries".<sup>1</sup>

The radicalism of Hindu Sacred Law had its own procedure and ideal in respect of checks on the king. Note 4 in the Appendix gives the necessary details. The doctrines of Manu and the Mahābhārata stand on the same level with the teachings of the great revolutionary work *Vindictæ Contra Tyrannos*, though the topical division of the subject-matter is missed in the latter. Indian Chronology is unfortunately unable to show the precise historical effect produced by Manu and the Epic, as was the case of the *Vindictæ*. The *Nalika* and the *Gulistan* are of course the summit of such theories. They approve tyrannicide and preach the same views of popular sovereignty under conditions of unlawful oppression. The Doctrine of Passive Resistance, though typically Indian, may be set beside Calver's Institutes.

<sup>1</sup> A Del. of Ind. Conf., Arya, Cal. 1926, p. 179.

## CHAPTER VII

### THE DIVINE RIGHT

#### *Its Source and Application*

In Hindu Political Theories from the earliest time down to the age of Śakra, "the Divine character of kingship" is recognised and declared in unmistakable terms, according to the view taken of the source of State authority. That to a certain extent it can be interpreted as the Divine Right of kings, once prevalent in the West, is a question not open to serious doubt. Different scholars have taken different views of the subject and their observations have thrown helpful light on the topic as a whole, leading to a searching examination of the underlying theory.

Sir Valentine Chirol, has touched upon this topic in his "Indian Unrest" and has quoted passages from the Mahābhārata to indicate only "the sentiment of reverence for the Crown wide-spread and deep-rooted among all races and creeds in India"<sup>1</sup>. He has pointed to a line of thought, which is essentially Hindu in character, but nothing more has been said by him, the reader being left to form his own judgment. Professor Hopkins has merely grazed over the surface by stating that the Indian "kings were taught that they were themselves the vicegerents of the gods and embodied divinity"<sup>2</sup>. Dr. C. Ghosal in his very useful volume has laid bare the two poles of thought and given his own conclusion. Dr. N. N. Law and Mr. B. K. Sarker, Professors P. N. Basu and D. R. Bhattacharya have discussed and hit upon the right point in elucidating "the divine origin and character" of royalty, in contrast to royal personality, as the true interpretation of the

<sup>1</sup> Indian Unrest, pp. 359, 360.

<sup>2</sup> Ethics of India, p. 226.

problem presented by the theory in question. But Mr. Jayaswal's is the most original exposition, which deserves careful attention<sup>1</sup>. The issue has still to be worked out in details, so as to disclose the difference between mere theory and real practice. The theoretical side comes from the sacred books and the practical side is decided by its acceptance by the people. Again there are reasons for the rise of a theory and these require careful treatment in order that the theory itself may be clear in its true significance. An attempt is made in this chapter to trace this theory to its sources and to reveal its meaning and application.<sup>2</sup> It ought to be remembered in this connection that as in the West and so in the East "the theory (itself) belongs to an age, when not only religion, but theology and politics were inextricably mingled",<sup>3</sup> and effect was made to base political authority on some transcendental grounds.

It is evident from historical records that "the divinity that doth hedge a king"<sup>4</sup> was more or less generally accepted as a permanent factor in various degrees in all the anti-popular theories of kingship, in the way of affording an explanation for monarchical authority. It has already been seen that political speculation had somehow to find a basis for the exercise of the power wielded by the king as the head of the state, which demanded obedience from the people. So far as monarchy is concerned, the right of the king to popular obedience and their tacit consent to his rule were founded on three kinds of initial assumptions

<sup>1</sup> *Manu and Jayaswala*, pp. 95 ff. and *Idem*, *Ibid.* on the source of the idea.

<sup>2</sup> N.B. The remarks of different authorities are given in the note on this chapter with a view to the many implications of the theory under review. See Appendix, Part I, II.

<sup>3</sup> *Uggle*, *Divine Right of Kings*, p. 13.

<sup>4</sup> *Hamlet*, IV, 5.



and their natural consequences, and these go to clothe the king with divinity and to make him either *partially* or *temporarily* divine. Hence three different conceptions of divinity, yielding as it were three aspects of the same quality, account for the idea, which culminated in making the king directly a god on earth. These have already been examined in a previous chapter<sup>1</sup> under the heading of Royal Authority, as divinity by (a) origin by (b) function and by (c) special creative will of God.

A careful analysis will go to establish that the ascription of divinity is due to :—(a) Participation of nature, which contributes a part of itself ; the result is that divine nature is predicated of the king who shares it. (b) Functional equivalence, when divine duties or similar ones are done by the king. It is like two parallel series of functions, permanent or temporary, going on two planes, the one in the region of the gods, the other on the earth. (c) Special creation by God. This assumes a special character and therefore it is certainly super-human, i.e. divine. (d) Entry of the divine element into human affairs through the person of the king, thus making him a part of the divine. (e) Good works done in previous birth securing temporary stay in heaven, where the nature of beings is supposed to become quasi-divine, and kings are such beings born on earth. All these concepts have been dealt with fully in proper places in the foregoing chapters on the Theories of Kingship and of the State and of Political Authority.

The mixture of different types of thought such as metaphysical as in (a) and (c), theological as in (d) and (e) and social as in (b), and their introduction into politics strengthened the monarchical ideas of the times. For them "to strengthen the monarchy was to

<sup>1</sup> *Ibid.*, Ch. III on Political Authority.

strengthen the state" as Gooch<sup>1</sup> says under a different context, but with reference to similar circumstances. The net result was that a number of religious appellations were applied to the king according to the degrees of the orthodoxy of political writers, and the adjectives themselves served as so many indications of the authority and position held by the king. The epithets vary considerably in nature in the different periods, but in Nirada<sup>2</sup> the climax was reached and the highest possible divine quality was attributed to the monarch. These epithets are arranged according to their character.

### Qualities approaching Divinity

(a) *The idea of identity*—On the principle of identifying the king with one or other of the gods the following extracts show the king's divine nature—

1. In the Rig Veda in a hymn by Tvasarasya, the king is described as a *devi-god*, an associate of the gods in heaven and sometimes completely identified with them—

"The gods associate me with the acts of (god) Varuna. ... I am Indra, I am Varuna, I am those two in greatness".<sup>3</sup> This is the earliest available notice of the king's position, where the king speaks of himself and is conscious of his status amongst men.

2. The Mahābhārata also identified the king with the chief god Indra thus, "In the sacred Laws the king is declared to be the god Indra".<sup>4</sup>

3. Somadeva Suri, though a Jain himself, has called the king—"A visible deity on the earth" and "an intermediate guardian of the quarters...and the best of them".<sup>5</sup>

<sup>1</sup> P 32, Political Thought from Demos to Hobbes, p. 30.

<sup>2</sup> C 303 & D.

<sup>3</sup> Rig Veda, IV 46.

<sup>4</sup> Śaṅk. Purāṇ. 89.

<sup>5</sup> Pre-Vikramputak, p. 64.

4. Chāpakya, who is the same person as Kauṣṭhīya, the author of the famous "Arthashastra", declared in the "Chāpakya Sūtras", (i. e. aphorisms by Chāpakya) that—  
 "The king is the chief god"<sup>1</sup>, but no emphasis on this thought occurs in his greater and cyclopædic work on the science of politics.

(b) *The idea of equality or similarity*—A little modification gives the principle of equality with or similarity to the gods on the strength of which the king is considered divine. Illustrative quotations are given below—

1. The Epic in a general estimate evidently made "all kings equal to gods".<sup>2</sup>

2. Again the king is termed to be "like an eternal god" in the Epic—

"Even the gods do not slight the king of virtuous deeds who is like an eternal god".<sup>3</sup>

3. Similarly it brought in a little change and made the king equal to Dharma, i. e. god of righteousness—

"The sages having seen both the worlds created the king Dharma (virtue) personified".<sup>4</sup>

4. The Rāmāyana has it in the abstract way; thus the king "is the right and the truth".<sup>5</sup>

(c) *The idea of incarnation*.—Incarnation of divinity in the king's person is a somewhat different line of thought yielding practically the same result as the above. The highly suggestive lines are given below.

1. Manu, the greatest of the law-givers, has called the king "a deity in human form" and this again in reference to an immature monarch—

"The king even if he is an infant, should not be despised from the idea that he is merely a man, for he lives a great deity in human form".<sup>6</sup>

<sup>1</sup> *Shloka*, 302.

<sup>2</sup> *Śaṅkha Parva*, 66.

<sup>3</sup> *Śaṅkha Parva*, 48.

<sup>4</sup> *Śaṅkha Parva*, 70.

<sup>5</sup> *Dharmashāstra*, II, LXVII.

<sup>6</sup> *Manu Smṛiti*, VII, 4.

Similarly the Mahābhārata designates the king in the same terms showing that the source of the two extracts was the same—

"The king must not be despised from the idea that he is a mere mortal, since he is a great deity in human form".<sup>1</sup>

2. The king is spoken of in the Epic as a "man-god" much in the same way as above—

"Since that time there has been no difference between a deva (god) and a man-deva (man-god) between a god and a human god; between a god and a king".<sup>2</sup>

3. The Bhāgavata Purāṇa has called monarchs 'the very embodiments (likenesses) of the gods.'<sup>3</sup>

4. According to Devala—

"The king is a god in visible form."<sup>4</sup>

(d) *The idea of qualified or conditional divinity*—Some mixture of rational thought brought about the idea of qualified or conditional divinity. It is conditional, unlike theological dogma, and is elastic enough to be used in favour of popular authority.

1. Śukra, with his Aristotelian insight holds that—

"The king who is virtuous is a part of the gods; who is otherwise is a part of the demons."<sup>5</sup>

2. Mitrā Mitrā quoting Nārada in the same strain lays down that—

"The king by virtue of his brightness and purity is like the Being without beginning and without end, provided that he does not stray from the path of Dharma, (i. e. righteousness)."

<sup>1</sup> Śaṅkī Pāra, 20

<sup>2</sup> Ibid., 26. Quoted by Prof. Bhattacharya, Carmichael Lecture, p. 130

<sup>3</sup> Bhāgavata Purāṇa, VII 2.

<sup>4</sup> Tula Smṛiti, Chatur-vyakhyanas, Polyschistic Khanda, pp. 55-77.     <sup>5</sup> Śaṅkī Sm., p. 29.     <sup>6</sup> Bhāgavata Purāṇa, pp. 21, 22

(c) *The idea of Divine Right*—As most strongly supported and dogmatically upheld, it is found in Nārada. It is perhaps its very climax from the doctrinaire point of view. Nārada's own doctrine in its complete expansion furnishes the closest approach to the western theory of 'Divine Right', and will compare well with King James's contention. The sage legislator begins by asking—

"Who will not obey the command of the person that quickly does, sees, hears, knows, causes to shine and protects everything, since he is born out of the essences of the duties? The king's command should always be obeyed otherwise death shall follow. What the king says, be it right or wrong, is the law (*dharma*) of the universe. The king lives on this earth like visible Indra; the people cannot prosper by violating his orders. Whatever a king does is right; that is the settled rule, because the protection of the world is entrusted to him, and on account of his majesty and benignity towards all creatures. As a husband, though worthless, must be always worshipped by his wives, in the same way the king though feeble should be worshipped by his subjects. Through fear of the king's command the people do not swerve from their duties. The subjects are purchased by the king's munificence (*pariṇāman*); he is their master, therefore they should submit to his command; their pursuits of agriculture, pasturage and the like all depend upon the king."<sup>1</sup>

<sup>1</sup> Nārada, S. B. E. XXXIII, pp. 277-281. S. Also cited in Dr. Ghosh's *India's Pol. Theories*, p. 339. Cf. Mānavaśāstra, who equates royal position with that of the husband, father, master, and creator. (*Divine Right*, p. 124.)

<sup>2</sup> S. E. Nārada's doctrine is placed last because of its being the culmination of the several approaches to this kind of thought. Chronologically he ought to go with the writers of the Dharmasūtras of later date.

### Probable Source of the Idea

The processes of deification have come down through a number of stages and probably varying circumstances, and the extracts immediately preceding lay bare the gradual depth and intensity of the qualifying epithets. The source, so far as it can be traced historically, appears to be in the Brahmanic theory of sacrifice, (whether at coronation or otherwise), which, besides keeping up its religious and social characters, forced its way into the political phases of the Aryan life of those days.<sup>1</sup> The practice of offering sacrifices was one of the chief customs, which the Aryans brought with them and on the Indian soil its highly developed form is noticed in the pages of the Vedic literature as "the very spirit of the age."<sup>2</sup> Mr. Gooch's significant remark—that "the tendency of mankind to invest its rulers with divine attributes is as old as history itself,"<sup>3</sup>—is corroborated equally under Indian conditions. Somewhere or other this attitude towards personal royal authority, as distinct from corporate power, rises to the surface in course of a long search after the foundations of political authority, though it may be faint at the start and far short of a worked-out theory.

Hints to some type of superstitiously, super-natural power, connected with the rise of kingship as a political necessity of the earlier times, are not wanting in the history of mankind, but they may not be all similar, though certainly parallel. Herbert Spencer's "medicine men" in primitive society<sup>4</sup> and Sir J. Frazer's "sympathetic magic" supplying the medium to kingship<sup>5</sup> are instances of the

<sup>1</sup> Vide Dr. M. Law's *Aspects of Ancient Indian Polity*, p. 189-201.

<sup>2</sup> MacDonnell's *History of Sanskrit Literature*, p. 70.

<sup>3</sup> *Enlightened Thought from Bacon to Hobbes*, p. 10.

<sup>4</sup> *Principles of Sociology*, II, p. 388.

<sup>5</sup> *Golden Bough*, IV, I, Vol. I, p. 56-57.

crudest form of naive ascription of super-human qualities to persons pushing their way above the ordinary members in a social group. The same phenomenon in different application is observable in India in the right of sacrifice, which is supposed to be a mysterious process of practical religion. Its social character in those days was of the highest value and it was the nucleus of many social activities under the patronage of religion, but its religious potency in some very remote time was in all probability the means of conveying and concentrating the supposed super-natural power. Dr. Das Gupta quoting Haug says—

"The sacrifice was believed to have existed from eternity like the Vedas. The performance of the rituals invariably produced certain magical results by virtue of which the object desired by the sacrificer was fulfilled in due course like the fulfilment of a natural law in the physical world. It exists, as Haug says, "as an unvariable thing at all times and is like the latent power of electricity in an electrifying machine, requiring only the operation of a suitable apparatus in order to be elicited"... ..Sacrifice is thus regarded as possessing a mystical potency superior even to the gods, who, it is sometimes stated, attained to their divine rank by means of sacrifice."<sup>1</sup>

The three elaborate sacrifices, namely, the Rājasthiya, the Vējapeya and the Ashvamedha, are all more or less essentially politico-religious in character, having the royal coronation and the royal consecration ceremonies among their many items of procedure, and were performed by great and powerful monarchs. Their expositions illustrate the nature of kingship, which clearly bear the stamp of Vedic influence. The Vedic tendency to identify kings

<sup>1</sup> *Idea of Ind. Phil.*, p. 32.

with the gods becomes the Brahmanic transmutation of royal character through the mystery of the sacrifice. The Atharva Veda, in imitation of III, 38, 4 of the Rig Veda, where the king of the gods, Indra, is extolled, declares in its relative portion in connection with the consecration of the king, that "Him approaching all waited upon, clothing himself with fortune, he goes about with brightness.....great is the name of the virile Asura, having all forms he approaches immortal things."<sup>1</sup> This evidently is only exaggeration of the nature and position of the king by a simple and religious people, when compared with the words of later Juristic apophany, notwithstanding what the commentators may be inclined to say in their own way.

But the immediately post-vedic literature has a slightly different position on this point, while its positive religious character makes its declarations categorically assertive. Thus the Śatapatha Brāhmana<sup>2</sup> repeatedly identifies the royal sacrificer with the chief god Indra and later on with the god of creation, Prajapati<sup>3</sup>. In III, 1, 1, 8; and in III, 2, 1, 7 of this work it is said that "He, who is consecrated truly, draws near unto the gods and becomes one of the deities", also "He who is consecrated indeed becomes both Viśva (the god of preservation) and a sacrificer, for when he is consecrated he is Viśva and when he sacrifices he is the sacrificer", while in V, 4, 3, 4, it is roundly stated that "The sacrificer is Indra, (the king of the gods) . . . for the twofold reason, namely because he is a Kṣatriya and because he is a sacrificer". The word 'kṣatriya' is here equivalent to the twice-born ruling caste having the right to sacrifice. The typical sacrificial proclamation stands like this—

<sup>1</sup> Atharva Veda, IV, 5.

<sup>2</sup> V, 1, 2, 3; 1, 3, 2, 4 & 3.

<sup>3</sup> V, 2, 1, 10; 3, 4, 10.



"I consecrate thee N. N. with the supreme rulership of Brihaspati.<sup>1</sup> Therewith he mentions the (sacrificer's) name : he (the priest) thus makes him attain to the fellowship of Brihaspati and to co-existence in this world. He then says 'All-ruler is this N. N.' All-ruler is this N. N." Him thus indicated, he thereby indicates to the gods. "Of mighty power is he who is consecrated ; he has become one of yours ; protect him".<sup>2</sup>

In the *Taittiriya Saṁhita*<sup>3</sup> as in the *Śatapatha Brāhmana*, the same identification with the gods is illustrated in the words of the sacrificing priest addressed to the king in 'the adoration' part of the ceremony—"Thou art (the god) Mitra ! Thou art (the god) Varuṇa !" But this work moreover indicates the general deifying effect of a sacrifice performed by any one in the extract here—"So him becoming (the god) Indra, his fellows recognise as superior ; he becomes the best of his fellows".<sup>4</sup>

### Jayawala's Interpretation

Mr. Jayawala has given a different and historically significant account of the rise of the Divine Theory and also traced it back to the coronation ritual. He has shown "that the code of Manu had to support a usurper, a revolutionary dynasty. To preach that he was not to be treated lightly or insulted (Manu, VII, 5), he had to invent a divine theory. The author of the code of Manu went, as every Hindu lawyer did when he wanted to re-emancipate the legal position of the king, to the ritual of coronation,

<sup>1</sup> S. B. E. Vol. XX, p. 32. See *Lawi Aspects of Indo-Iran. Pol.*, p. 243.

<sup>2</sup> I. B. 15.

<sup>3</sup> II. 121. 6. S. O. S. Vol. XVIII, 360.

the very basis of Hindu kingship. He, by a little distortion, converted the gods invoked to help the new king in his new situation into manufacturers of a new divinity—the king.<sup>1</sup> "It is a kind of fatalism in politics"<sup>2</sup> in the words of Mr. Jayawati connected with the process of equating religious merit with kingship, as already discussed in Chapter II.

The sacerdotal attitude of the time undoubtedly left a lasting impress on its ideal politics apart from practice in its constitutional history, and the precipitate of the unavoidable and invariable inter-action between religion and politics resulted in the canonical doctrine of the divine character of kingship, of which *Mlecha* was obviously the strongest and the most forward exponent. His doctrine resembles so much the Jacobite definition of the Divine Right given by Mr. Gooch that it is cited below—

"Nowhere is the Divine Right of kings—the doctrine, that is that monarchy is divinely ordained, that hereditary right is indefeasible, that kings are accountable to God alone, and that resistance to a lawful king is *un—more* concisely formulated or defended with more unflinching conviction than in the pages of the British Solomon".<sup>3</sup>

In theory at least the right of the king in the Indian political literature of the orthodox school attains an equally absolute position like that of "The True law of Free Monarchies" by King James. A "free monarchy" according to him was "a monarchy free to do what it pleased".<sup>4</sup>

<sup>1</sup> *Mitra and Dikshit*, pp. 24, 25 also p. 26.

<sup>2</sup> *Ibid.* p. 25. Vide Chap. III and Appendix I.

<sup>3</sup> *Political Thought from Demos to Hitler*, p. 14.

<sup>4</sup> *Ibid.* Another source of the idea of the Divine Right—coming from the process of deification may be found in the probable *Purusha*

## Practical Application.

The crux of the question, which, it is not unlikely, has often been missed, is brought to the front by the practical administrative operation of the doctrine. The rejection by the people of such a theory to be the principle of any Government, under which they should be called upon to

Religious competition of early Indian History, keeping in view the fact that the consolidation of political power meant the quelling of the authority of the Brahmanas and of the Kshatriyas in their own fields. A suggestion may be made on the lines of Poggis, who has tried to explain the origin of the Divine Right in English History. The same type of conditions might have prevailed in India yielding similar results, although such analogy cannot have any exact logical basis. The view that can be said safely is that both are parallel cases having some close resemblance. "The Papalist writers will be found developing a theory of sovereignty, for them look, the Pope, while this is met by the constant contention of the Imperialist that it not the Pope but the Emperor is truly sovereign; and this he is so by God's direct appointment. Here clearly are the main elements of the latter doctrine". (Divine Right, p. 14)

If that is so, may it not be suggested equally that the Brahmanical claim to divinity and authority was really the move to state very remote age of inventing the Kshatriya ruler with the same quality and power? It is a well-known fact that the Brahmanas possessed unquestioned political sovereignty as Dr. Roy Choudhury has pointed out. "His (the king's) power was checked in the first place by the Brahmanas. We have seen that the most powerful sovereigns, even those who were associated with pyrotheism, had to descend from the throne and make obeisance to the Brahmanas, who formed the higher educated community of those days. We learn from the *Atanasya Brahmana*, VII. 27 and Kautilya's *Artha Śāstra*, p. 14, that even a powerful king like Janamejaya was humbled by the Brahmanas", (Pol. Hist. of Anc. Ind., p. 94). Indeed the Brahmanas held sway over the whole realm unchallenged and their authority was unchallenged. To counteract this the ruler was thus clothed with those qualities, which were ascribed of the Brahmanas and on which their authority was based. Thus the qualities ascribed to the king on the doctrine of the divine right are exactly those which belonged to the Brahmanas by tradition. Careful study of the law books and the Epics would have no doubt on the part. These parallel occurrences of similar qualities need some historical explanation which is unfortunately unobtainable. More probably after

time from day to day, was similar in every country, varying perhaps only in its results. It is not the theory itself which determines the issue, its application is the test of the political character of the time and makes in fact all the difference. Yet kings are known to have fondly entertained too high and exaggerated an idea of their office and then perished against popular rights and demands. James in England and Vajra in India are instances to the point and both brought their own ideas to such a pitch, as to be the cause of their later haughty and irresponsible conduct towards the people. Their speeches, which are naturally similar considering the difference of time and place, are samples of a doctrine, which is safe only in the writings of political theorists, but which produces the most harmful result within the hearing of the people.

(a) King Vajra's speech to the Brahmana leaders of the people—

"O sages, you are all very foolish for you are disgusting wrong as right. I am your lord and giver of food, but you are going to worship another like a paramour, you are stupid for you are neglecting the very god in the shape of a man. Therefore there can be no good for you here or hereafter. Who is that person of the sacrifices whom you are honouring so much ? Just as adulteresses throw off their husbands

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that qualities had been added by long use as both sides well regarded to be quite in order, the Brahmana-Mahatmya usage was accepted as a political necessity. (see Appendix, Note on Theory of Genealogical). The following lines of Hopkins are illuminating.

Mrs. Butler's) private thought that they were gods on earth, but kings were taught that they were themselves incarnations of the gods, that embodied divinity, and her philosophers maintained that everybody was essentially divine, but all this made no difference in the lives of what a good willow, he he priest, king, philosopher or common man should be and do". (History of India, p. 202)

and follow their lovers, you are similarly adoring him. Brahmā, Viṣṇu, Śiva, Indra,...and all other gods reside in the body of the king. So the king is the essence of all the gods. Consequently O Twice-born ones! you ought to give up your waywardness and dedicate all your sacrifices to me and collect materials for serving me alone. None else shall be allowed to be given the first place and portion.<sup>1</sup> Nobody shall be permitted to perform any sacrifice or kindle the sacred fire or make gifts, for I am the lord of sacrifices and the sole master (of all). Who else can enjoy your offerings besides me? Who else is there superior to me so as to be adored (by the people)? O Brāhmanas! consider your own position and then obey my commands. You have nothing else in the way of giving or consecrating or sacrificing. Just as serving the husband is the highest duty of womanhood, so yours is to carry out my orders."<sup>2</sup>

(2) King James' speech to Parliament, 1609—

"Kings are justly called gods, for they exercise a manner of resemblance of divine power upon earth. For if you will consider the attributes of God, you shall see how they all agree in the person of a king. God hath power to create or destroy, make or unmake at His pleasure, and to be accountable to none. And the like power have kings. They make and unmake their subjects, they have power of raising up and casting down—judges over all their subjects and in all cases, yet accountable to none but God. They have power to exalt low things and abase high things and to make of their subjects like men at chess. (In 1640). ...Kings are not only God's lieutenants upon earth, but even by

<sup>1</sup> *Bhāgavata Purāṇa*, p. 323.

<sup>2</sup> *Tukay Purāṇa*, p. 48.

God himself they are called gods. (In 1646). As it is atheism and blasphemy to dispute what God can do, so it is presumption and high contempt in a subject to dispute what a king can do or to say that the king cannot do this or that."<sup>1</sup>

The spirit of both the speeches is identical, ending in dire consequences. And as James II was bombarded from England by the people for acting on the assumptions of the doctrine, the Indian king Vepra faced no better. In fact Vepra was killed by the Brahmanas, who represented the popular cause. In no case was the pretension to divine right, though made, practically allowed to stand as a settled fact. The people's rights were preserved against any aggression by the king, both cases being alike in fact but chronologically apart by a number of centuries. Willoughby's careless generalisation, that "in all the vast Asiatic monarchies of early days the rulers claimed a divine right, to control the affairs of the state and this was submitted to by the people with but little question",<sup>2</sup> needs to be modified to a very great extent both from the historical and the theoretical viewpoints.

In justice to Indian theorists it must be said that the tendency to absolute deification of the monarch was not allowed to pass unchallenged. Early in the epic age the Mahābhārata asserted that "the king of virtuous desire, who is like an eternal god" is never slighted, not even by the gods.<sup>3</sup> Even Nārada, as quoted by Mitrā Mīśra, saw the significance of "brightness and parity" in a king, in order that he might resemble "the Being without beginning and without end", and prescribed the 'path of dharma'

<sup>1</sup> See *Divine Right* p. 154. For Thought from Bacon to Milton, pp. 14-15. *Cambridge Lectures*, p. 180.

<sup>2</sup> *Nature of the State*, pp. 48-49.

<sup>3</sup> *Epics*, See on Divine Qualities.

(righteousness) for such a position.<sup>1</sup> But Śakra supplied the positive popular vindication in times of need by asserting a bad king to be "the part of the demons."<sup>2</sup> The significant qualifications—"virtuous desire", "brightness and purity" and "virtuous"—are all so many limitations of nearly absolute application. They reveal not so much the anathema of the political office, as the preparation to divine status and honour of the good man on account of his goodness. The emphasis is always on the virtuous qualities of the ruler, and he is esteemed because of these and raised to the position of the gods. It is, therefore, virtue that is really equated with divinity and that is again conditional in every case. The famous Kural supports this great political ideal by saying—

"Behold the prince who administereeth impartial justice and protecteth his subjects; he shall be called a god among men".<sup>3</sup>

The final conclusion of Hindu speculation cannot be better stated than in the words of the Mahābhārata that "one becomes a king for acting in the interests of righteousness and not for conducting himself capriciously".<sup>4</sup> Medhātithi the famous commentator of Manu, has explained away all the claims to royal divinity "as mere words having no force of law—mere arthavāda (eulogistic exaggeration) without real substance"<sup>5</sup> according to Mr. Jayaswal. The other side of the question involving the right of perfect arbitrariness on the part of the king was equally unconstitutional in the eyes of the Hindu politicians as well as of the commentators of sacred law. Mr. Jayaswal has made the cutting remark that "both

<sup>1</sup> Yds. Sapt. Sec. on Divine Qualities.

<sup>2</sup> Ibid.

<sup>3</sup> Kural, p. 81, Arjuna's Prayer.

<sup>4</sup> Śāstri Parva, Sec. 50, 51, 4. Studies in Hindu Pol. Thought, p. 27.

<sup>5</sup> Manu and Yājñavalkya, p. 37.

jurists and political scientists rejected this trick" (of the Divine right).<sup>1</sup>

Note 5 in the Appendix supplies the opinions of authorities and a short analysis of the religious sources of the doctrine.

## CHAPTER VIII THEORY OF STRUCTURE AND CONSTITUTION

### Analysis of the State *Its Seven Limbs*

The state is conceived of in Hindu politics as "seven-limbed" and as such it forms the concrete basis of sovereignty. In fact the sovereign power of the state resides in these limbs in the sense of functioning in and through them. Taxation, punishment, defence, &c. are only functions represented in organised departments which make government possible. According to the *Mahabharata* in its analytic treatment, "Each of the seven elements with majesty, energy and counsel conjointly enjoys the state."<sup>2</sup> It is only another way of expressing the fact of the operation of the supreme political authority decentralised for special purposes, into spheres of special application, and when the whole organisation is viewed from this stand-point, it is seen to consist of the seven limbs or elements spoken of above, making a highly complex unity, which is focused in sovereignty. This is technically called the "*saptāṅga*" (seven-limbed) theory of Hindu politics, and it is commonly accepted as the

<sup>1</sup> *Ibid.* p. 59.

<sup>2</sup> *Mahabharata Parva*, 381.



standard by all the political schools, canonical as well as secular. Under analysis these elements are found to be—

- |                                       |                              |
|---------------------------------------|------------------------------|
| (1) <i>Saṁiti</i> (Sovereignty)       | (3) <i>Amātya</i> (ministry) |
| (2) <i>Kośha</i> (treasury)           | (4) <i>Vaśa</i> (army)       |
| (5) <i>Rāṣṭra</i> (territory)         | (6) <i>Durga</i> (fort)      |
| (7) <i>Mitra</i> (ally). <sup>1</sup> |                              |

Of these a few alternatives are given in certain works, such as "*pura*" (city) for "*Durga*" (fort), and "*Dapda*" (fete, punishment) for "*vaśa*" (army). The explanation is that all ancient cities, being mainly established at protected places, could equally serve for forts, and "*dapda*" is used as a general term for the means of forcing or restraining or punishing those that needed coercion, either in intra-state or extra-state affairs.<sup>2</sup> *Yājñavalkya* has "*antya*" for "*rāṣṭra*" (territory), which naturally includes the people as a whole.<sup>3</sup> In fact territory without people would be useless and meaningless.

Kulluka Bhatta has supplied the meanings of the two peculiar terms, *pura* and *dapda*. He has explained *pura* as "a fortified town specially constructed by the king to live in,"<sup>4</sup> and *dapda* as "the four-fold army made up of elephants, chariots, cavalry and infantry."<sup>5</sup> But it should also be noted that *dapda* literally means punishment and thus it may include the police, armed or otherwise. M. N. Dutta in his translation of *Yājñavalkya* has done the words in the same way.<sup>6</sup>

The formal number areas of the commonly accepted elements of the state, has also been augmented or reduced

<sup>1</sup> *Tapasvīya*, 348, *Vedāga* 48, 58; *Māna* IX, 594; *Śaṅkha Parva*, 51, 52, 122; *Harigāya Jātaka Śāstra*, p. 262, 521; *Kāśyapa*, 246 *Śāstra*, p. 55, 52 *Śāstra* 246, p. 11, 262;

<sup>2</sup> *Māna*, IX, 594; and *Tapasvīya*, 353.

<sup>3</sup> *Ibid.*

<sup>4</sup> Commentary on *Māna's* Laws, p. 593.

<sup>5</sup> *Ibid.* p. 591.

<sup>6</sup> *Trans. of Yājñavalkya Smṛiti*, p. 57.

by political writers, according to the intrinsic worth of the elements themselves. The *Mahābhārata* expands it to *śas* by adding the factors of majesty, energy and policy<sup>1</sup> and also reduces it to *śve* essentials by deducting the sovereign and the ally.<sup>2</sup> The Epic does not seem to be quite satisfactory here. Neither its addition, nor its subtraction, advances the main theory in any way. It is Kaṇṇiṣya's treatment that is thoroughly scientific and accurate in analysis, though the Epic gives rare and important glimpses of pure reflection, particularly noticed in this connection. Kaṇṇiṣya has put one more very natural element, viz. the energy, to be considered together with the seven *śukta*, but he does not actually include it in the group. His analysis keeps only two ultimate elements—the king and the kingdom—which are called *janaraj*<sup>3</sup>, and the five middle ones are left out as secondary<sup>4</sup>. He has also a rough division of the "elements of sovereignty" into the "animate" and the "inanimate."<sup>5</sup>

The real difference between the *Mahābhārata* and the *Artha Śāstra* emerges out in clear relief—as far as can be gathered from the fact that the Epic explicitly refers in this context to a kingless society and the *Artha Śāstra* reflects faithfully the historical Maurya Empire—to be that between self-contained republicanism and fully aggressive imperialism. Obviously to the former the ruling head is of no importance, while to the latter he is the very centre of the state as the principal primary element. So here are the two poles of irreducible minimum of constituents forming the state, the one emphasising its popular basis, the other the importance of the royal office. Kaṇṇiṣya combines both views, first by separating the five "principal

<sup>1</sup> *Mahābhārata Parva*, p. 323.

<sup>2</sup> *Ibid.* Parva, p. 33.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Artha Śāstra*, p. 20.

<sup>5</sup> *Ibid.* p. 481.

constituents" and then by adding to them the sovereign and the ally to make up the total of seven.<sup>1</sup>

[Dhīraspati increases the number of the factors to eighteen, at the widest calculation from an inclusive view of all kinds of state relations and activities. To the group of six, according to him, his additions are chiefly the enemy, the friend and the neutral, making a total of nine<sup>2</sup>, due to the larger considerations of, what Kaṭilya terms, the "circle of states."<sup>3</sup> Its bearing on the seven elements of the state for internal administration is slight and unimportant. Obviously Dhīraspati is thinking of the circle of states.]

The terminology used in this respect shows high technique in the political science of the day. The word "aṅga", "varga", "prakṛti" and "vārtha"<sup>4</sup> all signifying the categories, elements, factors or constituents of the state, are technical in the most complex sense involving metaphors from other sciences. They will stand clearly elucidated in the treatment of the nature of the state. Of these the words *aṅga* and *prakṛti* are used most in political language. But each of the four terms suggests different ideas of the composition of the state organisation.

Other metaphors occurring in the same context are found in the phrases descriptive of the elements in general. They also give an insight into the structure of the state. The canonical phrase as seen above, is simply "sapta-aṅga", i. e. the seven limbs, already enumerated. The *Mahābhārata* has only a plain qualifying phrase for it, viz. "concerned with the state" and nothing more.<sup>5</sup> Kaṭilya

<sup>1</sup> *Arth Śāstra*, p. 51.

<sup>2</sup> *Dhīraspati Sūtra*, p. 16.

<sup>3</sup> *Arth Śāstra*, p. 52.—The doctrine of the circle of states being essentially with warlike relations between different kingdoms is purposely left out here. See *Indra*, Chap. XVII. Last, *Inter State Relations*, p. 25.

<sup>4</sup> *Śānti Parva*, VI. 20, p. 229; *Arth Śāstra*, p. 52; *Arth Śāstra*, p. 137; *Dhīraspati Sūtra*, p. 16.

<sup>5</sup> *Śānti Parva*, VI.

speaks of the "elements of sovereignty"<sup>1</sup> and Kaundinism makes use of the "constituents of Government".<sup>2</sup> Śastra has the "engine of sovereignty" for the whole.<sup>3</sup>

### Doctrine of Energism

When properly explained all the seven elements are only so many political categories standing for separate functions such as :—

- (1) Sovereign—Controlling centre (2) Ministry—
- Consulting medium (3) Territory—Medium of activity
- (4) Treasury—Money power (5) Army—Man power
- (6) Fort—Contingent defence (7) Ally—Aiding centre.

This scheme illustrates the Doctrine of Śakti (Kṛat) or Energism, i. e. self-assertion of the state. The Mahābhārata expounds that "Energism is the root of political science."<sup>4</sup> Thus the whole state may be expressed in terms of energy seen in all its activities, e. g. conquest (externally), taxation, i. e. treasure, finance, punishment, i. e. authority (internally).<sup>5</sup> This is the "affirmation" or "substantiation", which keeps the state alive through the "powers of deliberation, of arms, of finance" &c.<sup>6</sup> In the language of Hegel these are "the essential moments of its state's existence".<sup>7</sup> Thus it is that the state acts through its form, the king or the president, who is necessarily said to be "the creator of *śakti* (time or age) and the promoter of *dharma* (ideal of culture) and the originator of good and evil".<sup>8</sup> Professor B. K. Sarkar remarks in this connection that "the state is neces-

<sup>1</sup> Artha Śāstra, p. 310.

<sup>2</sup> Kaundya Śāstra, p. 21.

<sup>3</sup> Tapodhṛata Purāṇa, p. 130.

<sup>4</sup> Bhargava's Philosophical Theory of the State, p. 251.

<sup>5</sup> Śāstra Purāṇa, pp. 69, 80, 91 and Śastra-Vāda, p. 220.

<sup>6</sup> Mahābhāra, p. 38.

<sup>7</sup> Ideal State, p. 34.

<sup>8</sup> *Ibid.*, 180.

sely.....the chief dynamo of social engineering.<sup>1</sup> But time gradually narrowed down this doctrine and in Kāmandaka,<sup>2</sup> "prabhu-śakti or "prabhūva"—the individualistic power of mastership—takes the place of sovereignty, something like the majestas of Bodin, instead of a more general expression of state authority and power. He goes so far as to alter the time-honoured and classic definition of the king, viz. "Rājan" from the root 'raj' 'to please—he who pleases the people,'<sup>3</sup> to "a king is worthy of the name *Rajan* if only he possesses regal prowess", with which to rule,<sup>4</sup> for "by the substantiation of his prowess a king attains the highest pitch of prosperity".<sup>5</sup> It is worth mentioning that Kaṇṇilya recognises sovereignty or sovereign power to reside corporately in a clan, i. e. in group life.<sup>6</sup> The abstract sovereign power, or śakti, is but the concentrated totality of the diffuse and expansive strength of society, closely pointed out with reference to the nature of kingship and the origin of the state.<sup>7</sup>

Even if the earliest stage is taken into account the Vedic elements of the state, so far as they can be gleaned from the R̥g and the Atharva Vedas, are the King, the Council and the Assembly, although references to the formal political categories are profusely found in concrete shapes, as forts, armies, allies, tribute and lord. The truth is that the political elements did not then undergo that process of differentiation and integration, out of which all the present-day institutions have grown stage by stage.<sup>8</sup>

<sup>1</sup> Pol. Theo. & Inst. of Hindus, p. 176.

<sup>2</sup> Manu Sm., p. 158. See Ch. I p. 25. Also, Nīlakaṇṭhaśastrya and the Mādhyama's cited in Ch. I, p. 25; Yajñ. sh. II as well.

<sup>3</sup> Bṛhaspati-smṛiti, Dharm., 58; See Chap. I & IV, pp. 27, 30. See Mr. Jayasval's derivation which is parallel to Kāmandaka's.

<sup>4</sup> Yajñ. Sm., p. 24.

<sup>5</sup> Ibid., p. 24.

<sup>6</sup> Artha Śāstra, p. 40.

<sup>7</sup> See Gupta-Chaps. I and II.

<sup>8</sup> Cf. Spencer's Sociology, Vol. II, Pt. V, Ch. 2-4.

Professor Raaen has drawn a significant parallel between the East and the West and remarked on the lines of Freeman's 'Comparative Politics' that "in all the three European branches of the Aryan race the original political elements were the king, the council and the assembly".<sup>1</sup> This makes good comparison with Kautilya's tendency to reduce the elements of the state to the minimum of two, already alluded to in this section.

### Nature of the State.

Speculation of various types engaged the attention of political thinkers in ancient India in order to show as clearly as possible the structural nature of the state, as much as the many theories about it. The Indian comparisons are surprisingly similar and bear the closest parallelism to the Western ones from John of Salisbury down to Herbert Spencer.<sup>2</sup> Both the Eastern and the Western attempts may be said to have produced little effect on the political theories themselves, although from the social view of the question their expositions have to a certain extent explained, and that again only partially, the highly complex nature of society as a whole. But it must after all be remembered that society is "spiritual"<sup>3</sup> as pointed out by Kāmasūdra and "super-organic",<sup>4</sup> as characterised by Spencer, and cannot therefore be fully explained simply by metaphors and similitudes. They may at best help the understanding of the social structure, of which the state is the core, centre, and focus. This means that the complex unity expressed in the state, by collecting

<sup>1</sup> Indo-Aryan Polity, p. 33.

<sup>2</sup> Cf. Cohen's "Organismic Theo. of the State" and Butler's Pol. Theo. from Spencer to Today", p. 137.

<sup>3</sup> Infra: Sect. on Types of unity (c).

<sup>4</sup> Spencer's Sociology Vol. 1, 1.

together all the social elements and forces into one whole, eludes strict definitions after the more or less exact sciences.

Though both mechanical and organic conceptions of the nature of the state, as a unity of the component parts, are found in ancient Indian thought, the latter is more prominent, bearing greater resemblance and nearer approach to similar ideas of the West.<sup>1</sup>

## Types of Unity

The idea of unity, inalienable and unavoidable as it is, necessarily haunting social and political speculation, whether in the West or in the East, was sought to be explained in many ways and by many methods. Hence the complex unity of the elements enumerated by the Hindu theorists varies according to the character of the idea present in the elements and gives rise to different conceptions of the state as a whole, e.g. (1) *Mechanical* in the Vedas; (2) *Organic* in Manu, the Māhābhārata, Kaṭiḥya and Śakra; (3) *Spiritual* in Kāmandaka, and (4) *Artistic* in Śakra. All these are only rough estimates in the paucity of data, but their details are given below as far as possible. At certain places the mere ideas suggested in passing have to be worked out and partially supplemented in order to make them more explicit and intelligible.

<sup>1</sup> Little Jahn's "Political Theory of the Hindus", p. 45. For instance Śakra may very well be compared with John of Salisbury, who thinks that "the Principate or regnum is an organism, of which religion is the soul, the prince is the head, the senate is the heart, the judges and presidents of provinces are the eyes, ears and tongue, soldiers and subordinate officials are the hands, the king's ministers are the slaves, husbandmen, common workers and labourers are the feet, and the administrators of finance are the belly and intestines."

## Canonical Exposition

(a) The Vedic idea of unity, in spite of its application to cosmology and family and tribe, does not seem to have operated efficiently in the purely political sphere. Still it deserves mention, in so much as it is the earliest and it has also supplied the stock-phrase "the wheel and its spokes and its nave". Kautilya has used it with reference to the circle of states.<sup>1</sup> The Atharva Veda conceived of creation based on ultimate reality in this quotation—

"Thence the gods and men are set as spokes  
are fastened in the nave".<sup>2</sup>

Besides prayer for being "the centre of kinsmen"<sup>3</sup>, which is a similar idea of unity as noted above, the explicit advice in the following lines is only a further expansion as well as improvement—

'Serve Agni, gathered round him  
Like the spokes around the chariot nave.  
With binding charm I make you  
All united, obeying one sole leader, one-minded'.<sup>4</sup>

The metaphor underlying such thoughts did not advance beyond a static and mechanical unity, though suggestive of motion through the word "wheel". It is met with in later literature and is in fact a standard idea. The next step is to a "hub-like reciprocity" marking more advanced thought. This is also a standard phrase in Hindu philosophy.<sup>5</sup> When literally translated the phrase would stand as "Hub to the limbed attitude or relation" i.e. organic connection with the whole. It becomes a purely

<sup>1</sup> As in the Artha Śāstra, p. 303.

<sup>2</sup> Atharva Veda, Vol. II, p. 69, Griffith's Trans.

<sup>3</sup> Ibid. Vol. I, 69, Griffith's Trans.

<sup>4</sup> Ibid. p. 126.

<sup>5</sup> Yoka Yockum's *Drishya Mitra Bhaskara*, p. 61, and *Yatodgati Mitra's Bhaskara*, p. 61, Varanasi Sanshodhan Mandal.



political category is being used as the index and measure of political strength. Vashya Sarmā, the famous author of the *Hitopadeśa*, has pointed out,.... "How can strength (political) be gauged without the knowledge of link to the linked relation?"<sup>1</sup> That strength resides in intimate organic composition was clearly seen in the conception of this kind of unity.

(b) The Laws of Manu and the *Mahābhārata* have the organic conception of unity highly developed and applied to the state and its seven elements and are thus more advanced in this respect than the *Artha Śāstra* of Kaṭpiya, which is to be taken up subsequently. It is difficult to find out chronologically, when this idea grew up and in what particular system of political thought. Manu seems to be the first, under the present circumstances, to have used the conception politically and the *Mahābhārata* has evidently followed Manu's procedure. The great legislator has brought in a very happy simile to explain the complex organic connection between the whole and its parts, which is repeated in the Epic. Says Manu—

"Yet in a kingdom containing seven constituent parts, which is upheld like the triple staff (of an ascetic), there is no single part more important than the others by reason of the importance of the qualities of each for the others."<sup>2</sup>

The simile of the triple staff explains the nature of the unity most significantly, as the reference is to a very well known Brahminical custom. In the combination none is superior or inferior in any way due to any reason

<sup>1</sup> *Hitopadeśa* p. 26. B. Vidyāsāgara's Edition—

अङ्गोऽप्यस्य—relation between the link and the possessor of the link

<sup>2</sup> *Manu Smṛiti*, IX, 294. Yasho Dhanu's Hist. of Hindu Pol. Trans.

whatever, but all of them together make the staff as a whole, for otherwise there would be no religious significance in the staff itself. This comparison is meant particularly to illustrate the nature of the seven elements in mutual relation to the whole. The elucidation goes on further and in the verse following. Mann introduces the idea of the *individuality* of the factors, without destroying or even affecting in the least the organic nature of the whole composed by them—

"For each part is particularly qualified for the accomplishment of certain objects, and thus each is declared to be the most important for that particular purpose, which is effected by its means."<sup>1</sup>

Dr. Ghosal remarks that "this important extract exhibits, we think, for the first time, the application of the two principles in relation to the category of the seven limbs. These principles would be called, if we were to borrow western equivalents, those of integration and differentiation. It follows from the above that Mann presents a more complete conception of the organic unity of government than had occurred to his predecessors."<sup>2</sup>

In addition it ought to be said that Mann is quite masterly, no one else having approached the point from the ideal of "concrete individuality." Some Hindu political thinkers are more or less like John of Salisbury, given to superficial comparisons, without touching the core of the fact and properly analysing the underlying conception. Still it is surprising that in speaking of calamities, that might befall the several elements, Mann puts them in a properly graded list. The reason may be that certain elements are considered vital from the stand-

<sup>1</sup> Mann Sakshita, IX, 227.

<sup>2</sup> Hist. of Hindu Pol. Theor. p. 172.

point of the body-politic, as it is in the case of the physical body. Evidently Mann had the physical organism in mind when he treated revolution and resistance,<sup>1</sup> drawing a parallel between the two in order to make the meaning clearer. The verse is—

"Of the seven *prākṛita* (elements) of the kingdom, calamity would be more serious accordingly as it affects each one of them in an ascending scale (i. e. each element standing before its next in a backward series)."<sup>2</sup>

The series of the different elements is—"Sovereign, ministry, fort, kingdom, treasure, army and ally" in the verse 294 of the same book. No reason is given for this serial arrangement, and the commentators are not enlightening any more than the original. That their respective importance is suggested by their positions is the only possible explanation according to the custom of the Hindu writers, who tried to condense things into short verses.

The *Mahābhārata* in treating the subject practically repeats Mann in thought and language. Its conception is most ordinary throughout,<sup>3</sup> as in the extract given below, where it likewise follows closely Mann's codes. But later on, it rises to a view deeper and more comprehensive than that of Mann from another aspect of the question by comparing the state to the family, as the composite social unit made up of similar parts. This seems to be one of the greatest and soundest principles expounded by the Epic, once more proving the climax of political idealism in its pages and in the history of Indian political

<sup>1</sup> See Soper, *Doctrine of Resistance and Revolution*, p. 107 ff.

<sup>2</sup> *Manu* IX. 235. Cf. *Hist. of Hindu Pol. Theo.*, p. 170.

<sup>3</sup> E. g. *Bhīṣma-parva*, *Parva*, 57, 58.

speculation. What is common to the *Mānu Smṛiti* and the *Mahābhārata* is seen in the following extract—

"These seven limbs like the triple-staff live by clinging to one another. None of these is more powerful than any one of the others. Any one limb may be indicated to be principal, whenever a particular end is realised by it for the time being".<sup>1</sup>

This faint echo from the law-giver in the famous *Ryep* only serves to show a layer of thought precipitated through the ages, how long ago none can tell. But the most original contribution of the Epic lies in the discovery of the identity, that runs through the state and the family, and this is essentially the spiritual unity of individuals with a common purpose. The state and the family, the king and the householder are founded on similar elements, and their natures are alike in many respects. The *Mahābhārata* brings out the parallelism in the following passages, just like Williams' *Jura Magistratus*—

"Every man establishes his own authority in his own house (family) by rewards and restraints, therefore everybody is similar to a king. Like the king everyone has the collection of sons, relations, self, store, finance and ally.....To be proud of the presence (possession) of fort, army, kingdom, finance and ally is utterly futile (on the part of a king). Careful consideration will show that these are present in everybody..... No country is without a ruler, and there is no ruler who is absolutely supreme".<sup>2</sup>

<sup>1</sup> *Mahābhārata* Parva. 80.

<sup>2</sup> Ibid. 901—Of "Every master of a family that ruleth his own household is a petty king. A kingdom is nothing else but a great family where the King hath paternal power" (*Jura Magistratus*, 18—cited in the *Devata Rupa of Kings*, p. 144).

Again it follows necessarily that when the seven elements are found to be present in every family (household), the state is nothing more nor less than a vastly larger family in a general sense. The family is only the smallest state, along with others of the same type, within the larger state comprising them all. The family becomes the unit for all practical purposes. In other words the family is well large as the State. It is from this point of view that the king is said to be the patriarchal head of the state-family, in as much as "his subjects are like his own family".<sup>1</sup> Moreover the family type of political relation is unfolded in further details—

"Prajāpati Manu has described the king as father and mother, preceptor and protector, Agni (Fire), Kṛvra (the god of wealth) and Yama (the god of death).....A kind king is indeed like the father of his subjects, like their mother by willing their welfare and by maintaining the poor ones, like fire by burning away all harm from them, like Yama by punishing the wicked, like Kṛvra by rewarding good acts, like preceptor by giving them religious advice, and like protector by preserving the kingdom".<sup>2</sup>

Manu gives in a short sentence the subject-matter of the above passage—

"In his own country the king should treat the subjects (lovingly) like a father".<sup>3</sup>

The present day tendency to apply the family-idea to the state is not without significance, even if it is not in the same way and from the same ideal, though for the same object. Only a strong mixture of spiritual idealism can make such a position possible, as it was with the

<sup>1</sup> Śāstrī Parva, 31.

<sup>2</sup> Upadharma Parva, 136.

<sup>3</sup> VII. 51. See also Bolder's Trans. in S. B. E. XXV.

Hindus according to their best available light at the time. It is worth while alluding to Ruskin's remarkably parallel ideal where a modernised version is presented of this classic conception.<sup>1</sup> The shortest summary of it all is that the state should be in magnitude what the family is in miniature.

### Secular Exposition

(c) Kautilya, who is said to be the very originator of the doctrine of "the seven 'limbs'," does not himself analyse the state thoroughly enough, so as to reveal its nature. Probably the elements were integrated in some remote past from the essential functions of the state spoken of even in the Vedas. They came down traditionally as solidified precipitate of the common ideas of the race.<sup>2</sup>

<sup>1</sup> *Unto the Last and Other Essays*—*The Moon of Art*, pp. 9-10. "The proper counterpart of such a household would be seen in a nation in which political economy was rightly understood. ... That is to say, if they were to regard the nation as one family, the conditions of unity in that family consisted no less in their having a head, or a father, than in their being faithful and affectionate members, or brothers. ... And we can hardly read a few sentences on any political subject without running a chance of meeting the phrase 'paternal government', though we should be utterly horrified at the idea of government's claiming anything like a father's authority over us. Now, I believe those two formal phrases are in both instances perfectly fitting and accurate, and that the image of the farm and its servants which I have hitherto used, as representing a wholesome national organisation, fails only of doing so, not because it is too domestic, but because it is not domestic enough, because the real type of a well-organised nation must be represented, not by a farm cultivated by servants who wrought for him, and might be turned away if they refused to labour, but by a farm in which the master was a father, and in which all the servants were sons; which implied, therefore in all its regulations, not merely the order of discipline, but the bonds of affection and responsibility of relationship; and in which all acts and services were not only to be controlled by kindly command, but to be performed by fatherly authority."

<sup>2</sup> *Shree's Hist. of Hindu Pol. Think* p. 405.

<sup>3</sup> Cf. Macdonell's *Hist. of Hind. Lit.* pp. 281-2. If the views of scholars like Macdonell and others are taken into account, the Upan traditions

Kautilya's use of the materials on this particular point did not do proper justice to his great and towering political genius. He was content with simply naming and numbering the elements, so far as they were necessary for his purpose.<sup>1</sup> Yet his very significant use of the qualifying term 'limb-like'<sup>2</sup> does not fail to suggest between the limbs an organic connection and nature, which was not worked out at length. At least he had at the back of his mind something more than mere aggregation, when he tersely used the phrase "limb-like elements of sovereignty". Otherwise the words "limb" and "element" would make mere tautology in default of a biological idea behind them. Yet for him the seven limbs were all rooted in the sovereign, who is the "central pivot."<sup>3</sup>—quite a common tendency in almost all schools of Hindu Politics. Another peculiar statement of Kautilya, lending colour to the opinion above and showing the political relation between the ruler and the ruled and the kingdom, is inexplicable in view of the true structure of the state. His idea that "the king (as the head of the state) is the aggregate of the people and the kingdom"<sup>4</sup> seems to indicate an unsound mathematical summation of units which the state never is. This has already been referred to in the chapter on the Theory of Kingship.<sup>5</sup>

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will reach back to a very long past, before the present Chanson's Smṛiti version was made out of the collapsed *Prasāda* of the usual step-by-step. The *Epā* age will be the great repository of all sorts of material traditions used by the later periods. Although it is dangerous to argue, say, events due to any part of the *Epā*, the traditions, recorded and combined in it, may reasonably be maintained to be heavy with age, yielding some materials even to Haris as well as to Kautilya.

<sup>1</sup> *Artha Śāstra*, p. 319.

<sup>2</sup> *Ibid.*, p. 319.

<sup>3</sup> *Ibid.*, p. 319 and p. 329. *Yata Chanson's Hist. of Hindu Pol. Theo.*, p. 244.

<sup>4</sup> *Chap. II, Artha Śāstra*, p. 321 (Text): "Wāṅśa cāgrāṇi pādāni samīkṣya" (*State's Ed.*, p. 323). "Tatśaṅkṣyācāya vāṅśa" (*State's Ed.*, p. 323).

If it is understood to mean delegated authority of the whole body of the people concentrated in the king, it would wear a quite different complexion. From this standpoint the nature of the state becomes organic again, somewhat like collectivism.

The Jain writer Somadeva Suri deserves mention here though there is nothing remarkable in his contribution. He too followed Kautilya quite closely in almost everything. Dr. Ghosal says "with Kautilya he believes the king to be the root of the seven limbs of sovereignty".<sup>1</sup> In his *Nīṭivākyaṅgīthā*, Somadeva practically repeats the usual political formula—

"With the king as their root, all the pakṣaṭis (elements) become fit for fulfilling their desired ends."<sup>2</sup>

The figure of speech is common enough to be left without any comment and the meaning is clear on the surface.

(d) In the Śakra-Nīti is found an exact replica of John of Salisbury spoken of at the beginning of this section. Śakra's effort at being accurate at all costs recalls the vagaries of Herbert Spencer in detailing out the elements of the state. Just as their attempts added nothing of any abiding importance to political thought, Śakra's treatment similarly stands aloof without producing any effect on later political literature. According to Śakra's comparison the seven elements of the state are represented thus—

"Of these seven constituent elements of the kingdom, the king or sovereign is the head, the minister is the eye, the friend is the ear, the treasury is the mouth, the army is the mind, the fort is the arm, and the state is the legs".<sup>3</sup>

<sup>1</sup> *Stat. of India Pol. Theo.* p. 244.

<sup>2</sup> *Nīṭivākyaṅgīthā*, p. 62.

<sup>3</sup> *Śakra Nīti*, p. 11.



But for the spiritual and sacerdotal bias, Śakra goes exactly parallel to John of Salisbury. Professor Sarkai has remarked—"In reading this account... of statal morphology we seem to be moving in the atmosphere of John of Salisbury without his theocratic superstructure".<sup>1</sup> Śakra has followed up this line of thought at another place although the simile is changed. At the end of his book he says—

"The king is the root of the state, the councillors are the trunks, the commanders are the branches, the troops are the leaves and flowers, the subjects are the fruits, and the lands are the seeds".<sup>2</sup>

Kāmandaka has spoken similarly of the king as the "tree" (vṛkṣa) and the members of government as "ahāra" (protecting covering) and their combination is called "Śkandīlāra".<sup>3</sup> It seems to be a technical term for some sort of royal protection and also means a camp. This is but a mechanical conception but for the purpose of drawing a parallel it is not useless. A subdivision of the grand analogy is offered by Śakra where the king is made the centre of the comparison—

"The crown-prince and the body of councillors are the hands of the monarch. They are also known to be his eyes and ears, in each case right and left respectively".<sup>4</sup>

Kāmandaka is just equal to Śakra, his comparison being—"The prime minister and the crown prince are said to be the two arms of a lord of earth; the former is also said to be the king's eye".<sup>5</sup>

But to Śakra belongs the credit of positively designating the state as an organism, and pointing out in a

<sup>1</sup> Positive Morphology of Hindu Society, II, p. 22.

<sup>2</sup> Śakra Nṛa, p. 222.

<sup>3</sup> Śakra Nṛa, p. 22.

<sup>4</sup> Śakra Nṛa, p. 220.

<sup>5</sup> Śakra Nṛa, p. 224.

definite way the true nature of the state, so far as it was already discovered by his predecessors. He has laid it down straight that "the kingdom is an organism of seven limbs",<sup>1</sup> and his definiteness is scientific everywhere.

(c) While enumerating the seven elements in the usual way, Kāṇadaka elucidates their organic nature by making an important addition—"they contribute to one another's weal, and the loss of a single one of them renders the whole imperfect".<sup>2</sup> It is not simply a case of the elements clinging to one another and of being of equal value and importance. This intimate inter-relation is undoubtedly based on *Mān* and the *Pāp*, yet it is certainly a decided improvement on them and for the first time it reaches the rock-bottom of the analysis of the state on the right principle, viz., the inter-connection of the parts and their relation to the whole severally and collectively. Neither in *Mān*, nor in the *Mahābhārata*, the true nature of the organism is fully elaborated—it has been broadly indicated and the functions of the elements were stressed to prominence. Kāṇadaka rightly emphasises their bearing on the state as a whole and on one another. Further he makes a comprehensive and truly unique observation on the relation generally operating within the state, and on which the state stands and flourishes.—

"Just as the spiritual principle combined with matter, pervades this universe, so a king being united with his subjects extends his dominion over the earth".<sup>3</sup>

This remarkable statement is rich in philosophic depth and at the same time expounds a truth, which was probably in advance of the age from the point of view of scientific sociology. The king's religious preceptorship

<sup>1</sup> *Deb.* p. 11.

<sup>2</sup> *Deb. Sans.* p. 30.

<sup>3</sup> *Deb. Sans.* p. 31.

taught by the Epic does not fall within this category.<sup>1</sup> It is a political relation which goes to establish the unity of the state and its character is spiritual. The unity of the king (the State) and the subjects (the people) is asserted to be like that of spirit and matter—a subtle pervasive principle. The simile itself is a veiled identity. Kāśīśāstra caught a glimpse of truth, which he could not fully elaborate and the reason is perhaps not simply want of insight, but that philosophy in India at that period was not properly applied specifically to society and social problems. He touched the right point, which has unfortunately ended like a mere aphorism. Yet it must be said that he rose to the "super-organic" conception of the state, to use Spencer's happy phrase,<sup>2</sup> which was never thought of by Maṇu or the Mahābhārata and other Indian political thinkers.

(c) Śakra in a stray passage has tried to see artistic unity in the structure of the state. "Sovereignty in a state is deprived of beauty", says he, "if there is the king only, but there are no ministers, well-disciplined kinsmen, and restrained offsprings".<sup>3</sup> This in a way makes up for his formal treatment of the state as an organism, and this seems to be as important, though often overlooked, as organic unity itself. In fact it is a special kind of organic unity. It has also a hint at the more than organic side of the state, as the harmony of society, and although it is not distinctly spiritual as Śakra, its import is none the less telling. Unluckily such an idea has been left undeveloped by the author. An efficiently conducted and well governed state is expected to present an impression of this type.

<sup>1</sup> See Supra, Sec. (d) State as family.

<sup>2</sup> Bonquist's *Phil. Theory of the State*, p. 24.

<sup>3</sup> Śakra *Phil.* p. 12.

## Unity in Constitution

The Unity of the state cannot be better realised in practice than in constitutions. Constitutionism is the natural index of the cohesion of elements and adjustment of relations. Hindu constitutional theory and practice are essentially co-cohesion of functions, royal, ministerial and popular. Public declaration was necessary for this purpose in the shape of royal oaths. "Notions of antiquity and notions of our own times have devised coronation oaths for their kings, but none more forcibly brings to the notice of the new king the all-powerful, the all-sacred position of the country he is going to rule. To offend against the country was to offend against God Himself. . . . The oath originated with kingship . . . was as old as kingship itself".<sup>1</sup> This observation of Mr. Jayawant is typified in the citations below—

### *Vedic Royal Oath*

(1) "Between the night I was born and the night I die, whatever good I might have done, my heaven, my life, my progeny, may I be deprived of, if I oppress you".<sup>2</sup>

### *Epic Royal Oath*

(2) "I shall always regard the bhāuma (the country) as Īshvara (the highest god), and whatever is to be prescribed as law on the basis of statecraft, I shall follow without hesitation, never my own (evil) will".<sup>3</sup>

<sup>1</sup> Hindu Politics, 11 p. 80.

<sup>2</sup> *Savage's Brahmins*, III 4-1, 13.

<sup>3</sup> *Śāstr Parā*, 80, p. 113. Bengali Ed. Also see M. N. Dutt's, *Tragedy and Heroism in the History of the Hindus and India to Day* (Calcutta: 1912).

*Later Royal Oath, (Adapted)*

(C) "From today the kingdom is not mine : this is the king who will protect the subjects. The people should be repeatedly informed of it as the witnesses, and considered (collectively) the very god Vishnu".<sup>1</sup>

Indian constitutionalism is based on well-formulated "amanayas" (compact) or oaths, which the ruling head had to agree to when he took charge of the affairs of the state. Royal assurance had to be given on the lines of the royal oaths already cited. Besides safe-guarding popular interests and rights, they formed the foundation of law recognised by custom and tradition. It has been seen that in the theory of the creation of kingship, either by election as in the Vedic period,<sup>2</sup> or by divine will as in the Epic Age,<sup>3</sup> this sacred understanding between the king and the people invariably intervened at some stage, when the national political experience was perhaps sufficiently developed and solidified. The first oath quoted above is of the Vedic time, and the second is of the Epic age, but both illustrate the limiting conditions laid on royal authority,—conditions which could not on any account be transgressed with impunity.<sup>4</sup> This had a double effect, first of demarcating jurisdictions and secondly of establishing constitutional law thereby. The third oath duly inculcates the sacredness of the people as a body and how it should be regarded by royalty from the throne.

In the first typical constitution drawn up after the legends of Vepa, his son Pythra was asked—

(a) To be just to all beings, (b) to punish according to righteous law, (c) to respect and carry

<sup>1</sup> Chandrasekhar's *Majorana Samadhana*, p. 58. Jayram's Ed.

<sup>2</sup> Supra Ch. IV. Pol. Authority.

<sup>3</sup> Ibid., 1 pp. 42.

<sup>4</sup> Vide Note on Election and Deposition, Appendix.

out the law of the land indicated in the Vedas,

(d) and never to act according to his own will.<sup>1</sup>

Then from the popular side Śakra was made his priest, the Viśkikṣas and the Śāma-sins (clans of wise men) became his ministers, and Garga became his astrologer.<sup>2</sup> Compared with this, Mann's election in the social contract<sup>3</sup> marks an earlier stage, when monarchy is only formed and built up by popular contributions, before the birth of law. It is thus purely contract and not constitution in the sense of kingship based on law. Mann was invited to rule as king simply on a number of conditions. All the principal elements of the state, such as finance, army and territory were from the people, excepting the ministry, which becomes the chief point in the other account, where a real and actual constitution grows up. There is a great distance of time and thought between the contract with Mann and the covenant with Prithu, between the people's appeal to "righteousness (dharma) for protection" through Mann's prowess and the people's demand for "respect for the law of the land" on the part of Prithu. Conditions were created for Mann's government while directions were given for Prithu's government. The culmination was in the royal oaths marking out constitutional progress and profound regard for the people.

### The Council

The next great constitutional achievement is in the "councilar element" in Aryan politics, whether in the rule by one or by many. It supplies the last plank of constitutional government. Historically the ancient tribal assembly was the back-ground out of which the council

<sup>1</sup> Śaṅkī Parna, 80.

<sup>2</sup> Ibid., 50.

<sup>3</sup> Vide Gupta, Ch. IV. Popular Political Authority.

developed for executive purposes.<sup>1</sup> Its theory is necessarily intertwined with its genesis and is better understood in connection with its growth. It is the opinion of Macdonell and Keith that "the business of the council in the Vedic times was general deliberation on policy of all kinds and legislation, so far as the Vedic Indians cared to legislate".<sup>2</sup> Professor Sarkar has observed that "with the expansion of the tribe and clan in population and area, the primitive organs of the whole folk must have gradually dwindled into the less numerous and hence less democratic council of ministers, i. e. the king's advisers in peace and war".<sup>3</sup> This is identified by Professor Sarkar as the third stage of the evolution of the *Sabha*, as distinguished from the Vedic Assembly (*Samiti*), already referred to in the section on Popular Political Authority. A further specialisation of the council is the *Parishad* according to Dr. Law.<sup>4</sup> The word occurs in *Vasāsthira*<sup>5</sup>, *Māna*<sup>6</sup>, *Bṛhadh̥yana*<sup>7</sup>, *Pañḍara*<sup>8</sup>, and all of these are important books of law. Kaṇḍiyya and Kāmarādaka also speak of it in the same way.<sup>9</sup> Its function is said to be judicial in the law books, but this seems to be its specialised application. Broadly speaking the councillor character is legislative even in the Epic time as the *Mahābhārata* remarks—

"That is no assembly where there are no elders,  
Those are not elders who do not declare the law".<sup>10</sup>

<sup>1</sup> Law's *Aspects of Ancient Indian Polity*, p. 32 and Sarkar's "Positive Development of India's Sociology" p. 34.

<sup>2</sup> *Vedic Index*, II, 435.

<sup>3</sup> *The History of Hindu Law*, p. 36.

<sup>4</sup> *Aspects of Ancient Indian Polity*, p. 35.

<sup>5</sup> III, 20.      <sup>6</sup> III, 101.      <sup>7</sup> I, I, I, 6.      <sup>8</sup> VIII, 46.

<sup>9</sup> *Yitiśa Śāstra*, p. 39, *Kaśī Śāstra*, p. 120.

<sup>10</sup> *Mahābhārata*, V, 35. Quoted by Dr. Law in "Aspects of Ancient Indian Polity", p. 37.

## Co-operation and Deliberation

The theoretical side of government by Council flows from the conception of (a) co-operation by means of (b) deliberation giving rise to (c) a common purpose, which is operative through (d) a head, who like the nucleus holds the several elements together, so as to produce a total effect. The assumption behind it, is that many minds held in the same direction, can face all problems better and more successfully by their combined contributions. This was the experience of the race. The practical results of the Vedic conceptions of common mind in the Assembly, and common object in Election<sup>1</sup> are illustratively reflected in Mann's Law, the Epic, the Artha Śāstra, Nīti Śāstra and Śukra Nīti. It is rather surprising that none of them has changed or altered the theory in any way, since its first scientific inception. On the contrary the trend of thought is uniform throughout the long centuries intervening between the compilation of these works. The differences, as far as they could be seen, are slight and apparently verbal. For the Vedic common mind, common object, consultation and tribal leadership are found the more practical words such as co-operation, deliberation, well-discussed policy and the head of the state. By this time the tribal state became fully territorial.

The Mahābhārata, besides advising co-operation for ordinary works, such as those of farmers, shepherds and merchants,<sup>2</sup> speaks of the organisation of the state—

(a) "Leaving apart the question of government, even common works are difficult to be done alone. Hence for the work of the state the priest and the

<sup>1</sup> Rigra, Popular Authority.

<sup>2</sup> Śānti Parva, 73 & 79.



ministers and their help and advice ought to be accepted by the king".<sup>1</sup>

(b) "It is not within the power of one person to be engaged in the five (essential) needs of the state. The king should therefore entrust them to trust-worthy and well-stationed officers".<sup>2</sup>

(c) "The king cannot govern the state for a day without ministers".<sup>3</sup>

Maṇu has a slightly verbal change but is similar in purport to the above—

"The work which is easy in itself becomes at times difficult to be performed by one man. How can the government of a kingdom be possible alone which is productive of great results?"<sup>4</sup>

Yājñavalkya says in passing that—

"It (the state) is capable of being righteously administered.....by a truthful, pure and intelligent person who has good help-mates".<sup>5</sup>

Kaṭilya expresses the same truth felicitously by means of an exquisite simile—

(a) "Sovereignty is possible only with assistance. A single wheel can never move. Hence the king should employ ministers and hear their opinion".<sup>6</sup>

(b) "In the absence of ministers.....the king loses his active capacity, like a bird deprived of its feathers".<sup>7</sup>

Śūdra advises help of ministers on the ground of the development of state and according to him—

"The actions of kings without help (of councillors) lead to hell and destruction".<sup>8</sup>

<sup>1</sup> Dad., 80.

<sup>2</sup> Dad. 160, 165.

<sup>3</sup> Yājñavalkya, p. 55.

<sup>4</sup> Dad., p. 392.

<sup>5</sup> Dad., 75.

<sup>6</sup> Maṇu, p. 307.

<sup>7</sup> Artha Śāstra, p. 181.

<sup>8</sup> Śūdra Smṛi, pp. 80, 108.

The essential feature of a government, conducted by means of co-ordination and co-operation, has to be its deliberation and discussion, in order to include the contributions of as many as possible to form a common decision (and) on problems pressing for solution. Such a position illustrates not only the limitation of the royal power, but also the impossibility of anybody swamping more authority than his legitimate share. Hence naturally enough deliberation is enjoined by the canonical as well as the secular politicians—

(a) Mann sees the great importance of deliberation and is on this respect on the same level with secular writers. His view is that "free", "separate" and "united" consultation is needed for all affairs of the state, as warfare, taxation, consolidation of the country and the army and state charity.<sup>1</sup>

(b) The Mahabharata points out in its own radical way "that in respect of peace and war ... sport and enjoyment, the king has to consult with his ministers and then to judge advantage and disadvantage in favour of restraint... Where is his freedom in that case?" In fact "nothing can be achieved without deliberation".<sup>2</sup>

(c) Yājñavalkya advises consultation with ministers and commanders though not explicitly like Mann or the secular writers.<sup>3</sup>

(d) Bṛhaspati has a few pithy lines.... "policy is carried out after examination by councillors. Let him (the king) examine what is to be done or not to be done in conjunction with councillors".<sup>4</sup>

In secular Political Literature deliberation takes a

<sup>1</sup> Mann-Sanskita, p. 308.

<sup>2</sup> Śānti Parva, 321.

<sup>3</sup> Śānti Parva, 143.

<sup>4</sup> Yājñavalkya-Sanskita, p. 77.

<sup>5</sup> Bṛhaspati-Sūtra, p. 21.

prominent place as a matter of necessity. Kautilya, Śakra and Kāmandaka are all convinced of the intrinsic value of the formulation of policy. Kautilya's view is—

"Whoever is wanting in the power of deliberation should collect wise men around himself and associate with old men of considerable learning, thus he would attain his desired end".<sup>1</sup>

Again—

"No deliberation made by a single person will be successful".<sup>2</sup>

Śakra speaks of "deliberation on proposals and consideration of problems in the council house"<sup>3</sup> constituted specially for the purpose and further his clear advice is—

"He (the king) should consult with his ministers on future actions. . . He should discuss royal duties with friends, brothers, sons, relatives, commanders, and members in the council house".<sup>4</sup>

Kāmandaka is most abstract on this subject. His general statement is that "The power of counsel is of greater importance than that of arms"<sup>5</sup> and "is superior to the powers of energy and dignity".<sup>6</sup> But his specific injunction is that—

"A king seeking his own welfare should discuss the subject of a consultation severally with each of his ministers" and also "act upon that counsel that should be proffered by a highly intelligent and numerously supported minister" and again "duly entering the cabinet a king should hold counsel for facilitating the success of an act of undertaking"<sup>7</sup>

<sup>1</sup> Artha Śāstra, p. 378.

<sup>2</sup> Śakra Nīti, p. 25.

<sup>3</sup> Nīti Śāstra, p. 223.

<sup>4</sup> Ibid., p. 126.

<sup>5</sup> Ibid., p. 21.

<sup>6</sup> Ibid., p. 46.

<sup>7</sup> Ibid., p. 120.

In Somadeva Suri's opinion the object of deliberation in council is 'the attainment of large results at small expense'.<sup>1</sup>

### The Head and the Members

The importance of the Executive Head of the State and of the Ministers forming the regulative body may be placed one after the other for demonstrating not only their position in the organisation of the state, but also their reciprocal influence in limiting and balancing political power with weighty considerations from the side of the king as well as of the people. The relative value of the office of the king and of the ministry is dealt with from the stand-point of their inter-relation within the constitution. For such a state a head is needed as much as other officers to carry on the work of government.

The broad principle is amply illustrated in all types of political writings. In the Vedic Election a leader was felt necessary for the good of the tribe against its enemies.<sup>2</sup> In the Epic, a king is enjoined to be necessary for society and its preservation. It says—"One has to be consecrated to the royal position by those who wish for prosperity"<sup>3</sup>. For the Imperialist Kautilya, as a matter of course, "the king is the central pivot" of the state.<sup>4</sup> Śūdra has quite a similar idea, but he is more explicit as well as emphatic. According to him "subjects however vicious must not be without a king"<sup>5</sup> and again "there should be only one leader in a state, never many; the king should never leave any situation without a leader".<sup>6</sup> Kāmandaka holds that "the whole monarchy collapses with the king and revives

<sup>1</sup> *Yat Yajñam* (X). *Yat Yajñam*. In *Ind. Anth.* p. 202.

<sup>2</sup> *See* *Supra*, Pol. Authority II.

<sup>3</sup> *Śūdra* Purā, 47.

<sup>4</sup> *Artha Śāstra*, p. 373.

<sup>5</sup> *Śūdra* Purā, p. 12.

<sup>6</sup> *Ibid.* p. 43.

with his survival".<sup>1</sup> Hindu thought in general re-establis in this respect Dante's idea that man's best interests require a ruler and Fflner's conception that kingship is natural and necessary.<sup>2</sup>

The importance of the ministry is likewise signified by various ways and by various sayings, the common point being that the ministers are considered to be "the sole props of the state". The *Mahābhārata* declares that "the kingdom flourishes through the power of consultation... it is like the royal shield... it is the rock-cave of state preservation".<sup>3</sup> In Kaṇṭhya's opinion "the minister is the main stay of the security of the king's life", since "all activities proceed from the minister".<sup>4</sup> Kāṇḍaka follows the Epic and says that "the seed of counsel... is the seed of kings",<sup>5</sup> "There can be no prosperity of the kingdom if the ministers are not feared by the ruler" and "without the advice of the *pradhānis* (ministers) the state is sure to be destroyed", are the views of Śakra.<sup>6</sup> Kāṇḍaka makes the ministers severally as well as collectively responsible for the mistakes of the king. "Those ministers", he says, "are considered to be true guides of the king, who deter him from going astray". Hence the ministers are required "to instil knowledge into him".<sup>7</sup>

Thus it is that both Professor Sarkar and Saraswati are inclined to characterise general Hindu politics "ministerial" to all intents and purposes, i. e. based on the ministerial, or in other words, constitutional.<sup>8</sup> It may be expressed as ministry-centred. Prof. Sarkar has definitely

<sup>1</sup> *Pol. Sides* p. 97.

<sup>2</sup> *Dante's Rights of Kings*, pp. 151-2.

<sup>3</sup> *Artha Śāstra*, p. 269.

<sup>4</sup> *Śāstra Śūtra*, pp. 52-75.

<sup>5</sup> Sarkar's *Pol. Theo. & Inst. of the Hindus*, p. 176 and Saraswati, *Hindu Rājya* p. 82.

<sup>6</sup> *Rev. of Pol. Thought*, p. 137.

<sup>7</sup> *Śāstra Śūtra*, p. 58.

<sup>8</sup> *Hindu Sūtra*, p. 272.

<sup>9</sup> *Hindu Sūtra*, pp. 27, 82.

spoken of the ministry as the very "pivot of national life" and Saraswati's conclusion is that "the minister is the helm of the national boat". The king's position is naturally and necessarily summed up as that of "the permanent executive". Somadeva Surti says the same thing in fact by pointing out that "He is no king who acts without the advice of the ministers".<sup>1</sup> This is equal to yielding political initiative considerably to the constitutional element of the state. The implication is that a close supervision is necessary on the part of the king and of the ministers for guarding general interest expressed in laws and customs that keep social life alive. Kāmandaka has the grave warning that "the king who crosses his own ministers is himself soon crossed".<sup>2</sup>

The character of such a constitution had to be watched and nursed with national care, for it could make or mar political life. The executive as a whole including the king and his ministers formed the "Engine of sovereignty", to quote Śūdra's expressive phrase,<sup>3</sup> which was responsible for the good government of the country.<sup>4</sup> In Sanskrit Drama Literature the royal position is seen unmistakably in the back-ground of the ministry, a fact indicating the national importance of constitutional traditions.

"Kings must have  
 Their own desires, but for the general good  
 Forgo their own advantage. And to lose  
 My own for others' benefit makes me a slave".<sup>5</sup>  
 "And countless victims perish by the guilt  
 Of treacherous ministers, who thus involve  
 Both Prince and people in pernicious ruin".<sup>6</sup>

<sup>1</sup> *Śrībhāṣyam* II.

<sup>2</sup> *Nṛsiṃha*, p. 178.

<sup>3</sup> *Śūdra Nṛsiṃha*, p. 11.

<sup>4</sup> *Yājñalkya's Arthśāstra*, in *Amo, India*, p. 111, and *Abul Fazl's 'Ajam-al-Akbari'* (Glasgow's Trans.) p. 406.

<sup>5</sup> *Śūdra Nṛsiṃha*, Act III.

<sup>6</sup> *Śrībhāṣyam*, Act IX.

The king's office is indeed very difficult for "worry him the head that wears a crown" and the ministers are no better in this respect for "the position of a minister is no enviable one".<sup>1</sup> To produce the highest results co-ordination of both would be necessary at every step as well as integrity and faithfulness. But above all a clear conception of "the general good" should be the greatest and the most important content of the relation between the ruler, the ministers and the ruled. It is the pre-requisite of corporate life in all shape and nothing can be expected to be achieved, where this is lacking or neglected by those in the charge of affairs. "Promiscuous ruin" would be the sure result of faithlessness to this moral ideal. The subtle difficulty was very well depicted by the ancient dramatist Kāśha—

"If policy succeeds the people acclaim the prince's  
might,  
If disaster ensues, it condemns the incompetency  
of the ministers".<sup>2</sup>

The subject of the Brāhmanya-Kāshtriya combination (i. e. the joint effect of the wisdom of the Brāhmanya and the prowess of the Kāshtriya) and the problems of the number of ministers are to be found in Appendix, Note 6.

<sup>1</sup> Bhāṣya's *Arthashastra*, 3 & Quoted in Kretz's *Sanskrit Drama*, p. 222

<sup>2</sup> Kretz's *Sanskrit Drama*, p. 129.

## NATIONAL SENTIMENTS AND IDEALS

### Freedom and Unity

The Indo-Aryans were born to freedom and were by nature great lovers of freedom. As they expanded on the Indian soil in an unaccustomed climate and amidst races quite different from their own, they had to meet at every turn blocking obstacles from men and nature. They prayed chiefly for the removal of what stood in the way of their pushing forward with the increase of number and strength. Their passion for freedom in the widest sense found lyric expression in the records left by them. Both the *Rig* and the *Atharva Vedas* show unmistakable evidences of the spirit of liberty and enterprise, which worked vigorously in those far-off days and left indelible traces first in the hearts of men and then in the hymns to their gods. Such evidences reveal their wonderful tenacity and courage as much as their religious zeal roused by difficulties.

The *Rig Veda* has a number of instances, where blessing in the shape of "room and freedom" was asked of the gods. In fact the phrase is almost a standard supplication occurring frequently in the same unchanged form, and its meaning is not far to be sought. They wanted space for expansion, land to live upon as masters of their own homes and affairs, and sway over the newly acquired country and the unknown and unfamiliar men found in it. But more than these, their unimpeded



growth was mostly in their minds. Their national god Indra is propitiated to this effect in the following lines :—

"May Indra from the front and from the centre,  
As friend to friends, vouchsafe us room and freedom."<sup>1</sup>

The same prayer is offered to other gods for the same purpose, which is for obtaining from them protection and freedom in every respect—

"Now, Deities give us ample room and freedom.  
Be all of you, one minded, our protection,"<sup>2</sup>

The following lines from the Atharva Veda may be well compared with the above. The spirit is the same although historically the hymns are of later production :—

"Widely it stands around and far extended  
Fair to the gods and bringing peace and freedom."<sup>3</sup>

" " " " " "

"Ye are divine expiates give us freedom".<sup>4</sup>

By the time of the Atharva Veda the need for more room seems to have dropped out and the tribes settled down in suitable places. But freedom they desired as their birthright, which became conspicuous in Kautilya and Śūdra as a highly developed political concept, freight with all the implications of age-long political experience and tradition.

Along with natural love of freedom, the instinctive longing for unity is seen in the social idealism of the Vedic time. It is wonderfully spontaneous and human and certainly too advanced for that early age. The seers saw the need as well as the possibility of unity among the many tribes and magnified the idea; its practical character is manifest in every line; unadornedly it served

<sup>1</sup> Rig Veda, X. 44, p. 443. Griffith's Trans.

<sup>2</sup> Ibid. VII. 69, p. 66.

<sup>3</sup> Atharva Veda, V. 13, p. 306. Griffith's Trans.

<sup>4</sup> Ibid. V. 8, p. 179.

as a connecting principle in those days when people of different stocks, Aryans and non-Aryans, were coming into increasingly closer contact. The following passages occur in the Atharva Veda with a beautiful religious inspiration guiding ingenious social sentiment—

"Give us agreement with your own,  
With strangers give us unity,  
Do ye, O Asvins, in this place  
Join us in sympathy and love.  
May we agree in mind, agree in purpose,  
Let us not fight against the heavenly light,  
Around us rise no din of frequent slaughter,  
Nor Indra's arrow fly, for day is present."<sup>1</sup>

The consciousness of the complexities of life did not fortunately destroy the sense of unity, so essential to life itself. A healthy sentiment marked by a wide out-look is to be found in the lines below and should be read with the fore-going extract. The hymn under notice is addressed to the earth, the common home of all, and all types of men and beings are conceived of as mutually helpful and therefore, as it were, blessing one another. It is a typical Hindu imagery, namely, the inter-connection of the whole universe of the animate and the inanimate.

"Earth beading folk of many a varied language,  
With diverse rites we seek their dwelling places,  
Pour like a constant cow that never faileth  
A thousand streams of treasure to enrich us  
Produced from thee, on thee more mortal creatures,  
Thou hast them both quadruped and biped,  
These are, Prithivi, these five human races,  
For whom, though mortal, the sun, as he rises,

<sup>1</sup> Atharva Veda, VII. 53, p. 333 Griffith's Trans., Whitney's rendering appears to be rather literal (R. C. S. Vol. V, p. 420)

Spreads with his rays the light that is immortal,  
 In concert may these creatures yield us blessing !  
 A vast abode has then become, O Mighty !  
 Great storm is on thee and agitation,  
 But with unceasing care Indra guards thee.  
 Kind, ever gracious be the earth we tread on,  
 The firm earth, Prithivi, borne up by Order,  
 Mother of plants and herbs, the all-producer,

On whom are settled, joined together, the night  
 and day,  
 The dusky and the roddy."<sup>1</sup>

But the *Rig Veda* rose to a higher level, and a more comprehensive ideal, when to a certain extent, its praise to Indra, the national god, conjured up according to the extent of the available knowledge and culture of the period, the vision of a mighty unity, yet quite faint and rather inarticulate, of the tribes and races in the formative stage. The very conception is praiseworthy in spite of the fact that its depth and content were not of the fulness of present-day thought. That it was possible at the time is an eloquent testimony to the height of the minds of those who could write the following—

"He makes the races of mankind like the synods  
 of the beauteous  
 One, Indra knows this his manifest deed and is  
 renowned."<sup>2</sup>

This conception may be obscure, as Griffith has pointed out,<sup>3</sup> but there can be no doubt that the idea of unity on a religious basis was the centre of the imagery. It may

<sup>1</sup> *Ibid.* VII. 1. Ep. 34, 180 Griffith's Trans.

<sup>2</sup> *Rig Veda*, VIII. 81, 5, p. 356. Griffith's Trans. Cf. Thompson's "Parliament of men and Federation of Mankind" (Lancely Hall)

<sup>3</sup> *Ibid.*

be the religious assembly for praising and honouring God and all the races of mankind made up the synods for this purpose. The word "synods" shows that presumably all the synods are thought of collectively praising the god Indra. Again in a simple yet sublime and homely metaphor the *Mahābhārata Upanishad* points to "where the whole world becomes one nest."<sup>1</sup> The idea of the Kingdom of Heaven with its ever-expanding social, political and religious implications mark the culmination of the same process of idealistic speculation, as is happily illustrated in the nest-idea for drawing all mankind together. It is in the *Gītā* that the final word is spoken in this connection, and that only in the shortest way possible, and the world of men and gods is exhorted "to help one another to live and realise the highest good."<sup>2</sup> The rudiments of the Vedic ideal of unity are a glorious beginning worthy of the later metaphysical unity of the *Upanishads*,<sup>3</sup> which has stood the tests of time and left a rich legacy of moral and social truth.

<sup>1</sup> *Mahābhārata Upanishad*, I 3, p. 136. Panchajanya Ed.

<sup>2</sup> *Gītā*, III. 31.

<sup>3</sup> This harmonism was never lost to view, while its social implications deepened as years rolled on and thought progressed. The old-quoted verse popularised by Vishnu Śaṅkara gives us a neat-shell the whole of Hindu outlook on social relationships of the largest scale. It may be derived from the Latin saying—"Remus tuus, Remus tuus est non alienus, pater"—on which so much of Western social thought was based at a time, but the spirit it well understood when it is said with the ancient Hinduism—

"Our belongs to us or is a stranger in the calculation of the narrow-minded.  
To the high scaled the whole world is, as it were, both and kin."

(*Hitopadeśa*, p. 32, Tatyasaheb's Ed.)

The imagery here is that of a large world family, where inter-relations have established a comprehensive unity. It categorically asserts this unity to be of the same type, as it were, of actual blood-connection and consequently does not see any necessity for the negative process of wiping out the differences between the Jew and the Gentile, the Greek and the Barbarian

These germs of freedom and unity may be seen in mature forms in later ages, when progress becomes more

The unity is truly an difference and a space of difference. Christian thought is gradually coming to make this position in the present time.

Both Sybil's *Love* and Mrs. Know have commented on this freedom and inspiring ideas (*Mod. Review*, Sept. 1906, pp. 341-342). They have seen the potentialities lying beneath the idea. To it seems both are wonderfully caught under the influence of classical political maxims and their thoughts struggle with difficulty to reach beyond politics. The fundamental thought of a world of citizens, though not of blood, transcends political and economic considerations, like that of the kingdom of heaven associated by Christ. There can be no antagonism between humanism and idealism (*Ibid.*, p. 342) in such a relationship, which is essentially spiritual, when what is needed is but the transmutation of every connection into the spiritual. Professor Levi has well said in this context—

"We believe in the unity of mankind, we know or we surmise that we belong to the whole of humanity; that the whole of humanity is connected with us. Whenever a man lives, works, suffers, he is ours: we have to understand him, to clear away the moral differences which time and space may produce in order to reach the permanent elements of brotherhood: which, we are sure, lies at the bottom of mind and heart" (*Ibid.*)

Professor Know has criticised this and added the following—

"They (the Indians) were wrong of the unity of mankind, because each individual is a spark from the eternal source of light. But this unity is of a different kind from that described by Mr. Levi and must be realised by each individual *as a man and not as a citizen*". (*Ibid.* p. 342).

It is indeed very difficult to understand what he means by differentiating between a man and a citizen in this respect and it is equally doubtful whether a man can be drilled up in this fashion in the social sphere. The whole question in social idealism is to transcend the citizen or the particular national and to gather him up in the man. It is the same in Christianity as well as in Humanism. Professor Know seems to be arguing from a wrong viewpoint in this connection. When the spiritual gains the pre-eminence, as in all kinds of idealism, the man becomes more important than the citizen, who is subordinated and included in the man. If humanism is to be an authoritative principle it ought to be spiritual as *such*—and it is so in reality—based on what *as* man is the most universal, important and abiding.

Human humanism is a spiritual doctrine applicable to man wherever and whatever he may be. It does not admit any difference between the worker and the householder, when the inner man is taken into account. It knows that all Greeks and Barbarians, Aryans and Non-Aryans, but the man is

intensive and extended its influence on the many phases of national life. The two strains of thought ran almost parallel to their respective climaxes and they do not altogether pass out of view, even if logical connection may not be available throughout. The spirit of freedom welled itself out specifically in theoretical treatments, through its strong exponents Kaṭilya and Śūdra as well as in the Mahābhārata; while easily put on a partially religious garb and found the sublimest expression in the ethical ideal of *ahimsā*.

### National Freedom

National freedom is conceived at its highest by Kaṭilya and Śūdra, which will compare well with modern standards. They saw in self-rule the realisation of the greatest possible liberty, until all obstacles to liberty were removed in the idealised polity, like those described in the Epic and in some of the Purāṇas. All this is different from the vague yet passionate outbursts of the Vedic people, being strictly determined by the demands of political science. Kaṭilya though an imperialist knew the value of liberty whether personal or national. Indeed no political thinker was so thorough and accurate in this respect. To him personal liberty was an axiomatic truth needing no argument for its proof. He gave to

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them make for a universal family unit. This ultimately depends on the culture of the heart—first individual and then collective—whether it is developed in the homing, the household or in the city-state, and is not a matter merely of temples, synagogues and churches. The spiritual quality of man asserts itself under all conditions, and is the greatest safeguard in a world of conflicting interests. What a beautiful conception is contained in the oft-quoted line of the Bhagavadgītā:—"He is really happy who sees the self in all beings" (Udaypaṇṇa, 12).—serving not only to explain the philosophic basis of social idealism but also to bring it to the level of the ethical conceptions of Green and other Neo-Humanists. Cf. Hopley, *Science of Ethics*, p. 122.

"Aryahood"<sup>1</sup> the connotation of cultured liberty and declared "never shall an Arya be made a slave".<sup>2</sup> On the same principle Kautilya condemns foreign rule. It is an unmitigated evil with nothing to counter-balance its effects. "Foreign rule, which comes into existence by seizing the country from its king, . . . thinks that the country is not its own, impoverishes it and carries off its wealth, or treats it as a commercial article, and when the country ceases to love it, it retires abandoning the country".<sup>3</sup> Śukra says with equal stress that "great misery comes from dependence on others. There is no greater happiness than that from self-rule".<sup>4</sup> And Maun laid down in an ethical strain the general principle that "pain is subjection to other people and happiness is subjection to self—this is the sign of pleasure and pain in short".<sup>5</sup> Comparing the above with Mill's observation on the same topic it is remarkable that there is so much similarity of thought.<sup>6</sup> It is to be noted as well that Professor B. K. Sarker has called Śukra's position positive and that of Kautilya negative according to the nature of treatment as well as of content.<sup>7</sup>

It will not be out of place to notice here a remark of Haveli skilfully used by Mr. Row, who evidently

<sup>1</sup> Artha Śāstra, pp. 181-182.

<sup>2</sup> Artha Śāstra, p. 181.

<sup>3</sup> Artha Śāstra, p. 182. See Hindu Policy, p. 54 for Mr. Jajamoni's interpretation.

<sup>4</sup> Śukra Smṛti, p. 126.

<sup>5</sup> Maun Smṛiti, IV, 148.

<sup>6</sup> Hop. Govt., p. 358. Whymman's Ed.—Mill has pointed out that "The government of a people by itself has a meaning and a reality . . . but such a thing as government of one people by another does not and cannot exist. One people may keep another as a vassal, or procure for its own use, a place to which nature has, a human will has, to be worked for the profit of 'the very subordinates'. Again, 'between the subjection to the will of others and the virtue of self-help and self-government, there is natural inequality. This is more or less complete according as the bondage is strait or relaxed'.

<sup>7</sup> Ibid., p. 213.

<sup>8</sup> Pol. Theo. & Inst. of Hindu, p. 213.

means to develop the conception of liberty in conformity and in unity with that of dharma (righteous order) and jñāna (culture). He shows first that "Arian stated that in Ancient India every one was free". And then he quotes from the *Ancient and Mediæval Architecture of India*—"It is true that the Indo-Aryan liberty was not of the crude Western type represented by the formulae of Liberty, Equality, Fraternity. It was liberty for every man, whether king or peasant, to follow his own dharma—that dharma being that which long tradition and the wisdom of Aryan law-givers, who knew Indian History and the Indian people, had taught everyman within the Aryan pale to regard as his duty to God, the state, his household and himself".<sup>1</sup> It is no wonder, therefore, that Sir Herbert Riley said on the authority of Sir Henry Maine that "the idea of nationality was first divined from India; it travelled westwards; now it is travelling back to the East growing and spreading out, but without the root of experience".<sup>2</sup> The ideals of liberty and nationality suffered very badly in the middle ages in India, but the traditions of such ideals are deep rooted in dharma (righteous order) even today. Modern thoughts coming from the West have reinforced them tremendously, yet the right adjustment has still to be made in the light of ancient dharma, in order to avoid the undesirable effects of unsynthesised extremes as well as the dewes that comes with the leaves.

### Utopia Building

The pressure of the will to freedom logically raises thought to that plane where limitations are eliminated and theoretical perfection is achieved in imagination. The

<sup>1</sup> *Development of Democracy in India*, p. 22.

<sup>2</sup> *Ibid.* p. 21.



Effendi idealists were sharply intolerant of all kinds of injustice and were prepared to be anything as against being in chains in any way. In their opinion, which is clearly reflected in this verse—

"The state of a frog in the mud is deplorable, of an insect in dirt, of a snake in a lightless cave, but never man's injustice".<sup>2</sup>

This is their finding after all their serious consideration of "what man has made of man". They were forced to look beyond the present and to conjure up the possibilities of a better future. The condemnation is hyperbolic above, giving a vivid word-picture of the Eastern mind, for seriously none would be ready to be frog and insect and snake, when proper consideration was not procurable in the world. "Equality (to all beings) is the highest standard of conduct"<sup>1</sup>—all knew it well and also that "anarchy is preferable to a worthless king (state)"<sup>2</sup>. These thoughts set forth their social and political experience.

Political Idealism, issuing from the efforts of political science in bringing about a better and more satisfactory state of society, invariably joins forces with the political aspiration of those with a vision for the future. Its literary manifestation is in imaginary picture of ideal, social and political organisations, showing the measure and extent of possibilities. Here the social element is made to grow and mix with and lose itself in the moral and the spiritual, since any human perfection cannot but be ultimately of this nature. Buddhist and Epic thought supplies such instances of Utopia-building without lengthy elaboration. No account relates the conditions, which

\* *Tagesspiegel*, 12. März 1999, II 14, p. 47=

**Thema:** Inwiefern kann das Verhalten eines Individuums durch die Umwelt beeinflusst werden?

The measured frequency differences are shown schematically in

<sup>1</sup> *Estuaries and Coasts*, p. 61.

gave rise to such political picture-painting in ancient India, and there is no historical record of antecedents, like those of More's *Utopia* and Harrington's *Oceana*, although the Buddhist *Saṅghāvāsi* may be understood as the Augustinian City of God. In the huge mass of materials in the *Mahāvastu*, mythical geography has shown fanciful islands with different grades of communal life. The most perfect one, named the "Śāka-Island", yields the sub-joined Utopian history—

"There the people are divided into four vargas or classes; they live long and are devoted to their respective duties. There is no fear of theft, nor old age and death have power there. Men prosper just as rivers swell in the rainy season.....In that country they have no king and no fear of state punishment and no police officers. The people mutually hold and preserve one another by their own righteousness".<sup>1</sup>

Such a description is expected only of a perfect society, where the members are so far moralized as to require no state at all. The next natural step is to the spiritual region, which to all intents and purposes stands to be the *Saper-state* or "*Extra-state*", as the word has been coined by Professor B. K. Sarker. All our political concepts and economic ideas have no place there. In fact the economic and political conditions cease to operate there, and therefore the result is also different.

The inner urge of Buddhism rising from its fundamental conception of freedom over-flowed its religious boundary into the fields of politics and economics. The practical defects and short-comings of society, due to wrong distribution of property and power, are eliminated in the perfected abode of bliss. The whole world of

<sup>1</sup> *Buddhism*, Part. XI, p. 543. Partially similar descriptions are available in some Purāṇas as the *Bhāgavata* and the *Vaishya Purāṇa*.

matter and fact, together with physics and botany, politics and economics, is idealised into the two fancy-fashioned spheres of eternal happiness, designated the larger and the smaller Sukhavati or the world of the Buddha. The conception is thus detailed out in a few relevant passages.

There is nowhere in that Sukhavati world any sound of sin, obstacle, misfortune, distress and destruction ; there is nowhere any sound of pain, even the sound of perceiving 'what is neither pain nor pleasure is not there. In that world, Sukhavati, beings do not take food consisting of gross materials of gravy and molasses, but whatever food they desire, such food they perceive as it were taken and become delighted in body and mind. Yet they need not put it into their mouth (40-1). And when these beings there desire, thinking what kind of wishes should be fulfilled for them, then exactly such wishes are fulfilled for them according to the Law (38). And again Ānanda, all those beings, who have been born in that Buddha country receive the story of the Law, which is accompanied by omniscience and for the beings in that Buddha country there exists no idea of property whatever (35). For in that super-sensual region beings are not born with any idea of property even with regard to their own bodies (13). And all those going and walking through that Buddha country feel neither pleasure nor pain, stepping forward they have no desire and with desire they do not step forward. They give no thought to any beings.....For those beings who have been born in that world, Sukhavati, there is no idea of others, no idea of self, no idea of inequality, no strife, no dispute, no opposition. Full of equanimity, of benevolent thought, of tender thought, of affectionate thought, ... of thought fixed

on the practice of discipline and transcendent wisdom, "and they closed the eye of flesh and assume the heavenly eye" (55)<sup>1</sup>.

Practical politicians and statesmen, ancient as well as modern, are averse to imaginary politics, which is never useful, but merely provokes futile desire for unattainable things. Kautilya, Kāmasūdra and Śakra are altogether stolidly silent on such possibilities of perfection in political picture-painting. Milton, Cromwell and Burke were definite about its uselessness.<sup>2</sup> But its value will always lie in the fact that the human mind is never satisfied with present achievements, but tries always and under all circumstances to rise to something higher. It is the "divine discontent" in the political field. Even "the Kingdom of Heaven" is, a sublime unity of man's social and political aspiration spiritualised to the very highest, here and hereafter.<sup>3</sup> That morality and politics, when they are highly sublimated, inter-mix with religion is a fact well-known in the East as well as in the West, since there cannot be a sharp and lasting distinction between the goals aimed at by these sciences.

### Love of Country

Another phase of nationalism, though narrower still, is patriotism or love of country. It manifested itself quite early in the Rig Veda and later on in the Atharva Veda. The circumstances giving rise to such a sentiment in the Vedas are unknown, but it may be said with some cogency

<sup>1</sup> *Buddhist Mahāyāna Texts*, II, pp. 13, 49, 58. S. E. E. Vol. XLIX, Calcutta, 1894. Vide Prof. Parker's *Pol. Th. & Hist. of Hin.* p. 204.

<sup>2</sup> Vide *Areopagitica*, p. 12. *Quarendon Press*; Arnold, *History of English Literature*, p. 344; *Constitution with America*, p. 175. *Paradise Lost*.

<sup>3</sup> Seeley, *Four Great Ch.* XI, p. 134—



With Kubja and with these Śradha, and Mohana,  
 then seeked in thy course Karma and Gama<sup>1</sup>!

These are simple words of the earlier sages, but these very thoughts became infused with emotion with age, reinforced by a singularly passionate devotion never out-stripped in Sanskrit literature. The Atharva Veda sings of the Earth and her many blessings on national life, with a truly religious fervour. Here national consciousness seems to be at its best and being spiritually infused puts on a sacred colour. The whole hymn is worthy of quotation in full, but it is too long to be reproduced completely. Only typical extracts are given as illustration—

"Truth high and potent law, the consecrating rite,  
 Fervour, Brahmā and sacrifice uphold the truth,  
 May she, the queen of all that is and is to be,  
 Prithivī make ample space and room for us.  
 Not over-crowded by the crowd of Man's sons, she  
 Who hath many heights, floods and level plains,  
 She who bears plants endowed with many varied powers,  
 May Prithivī for us spread wide and favour us.  
 In whom the Sea, the Śradha and the waters, we  
 Whom our food and corn-lands had their being,  
 In whom this all that breathes and moves is active,  
 This earth assigns us foremost rank and station.  
 On whom the men of old before us battled, on whom  
 The gods attacked the hostile demons,  
 The varied home of birds and kine and horses this,  
 Prithivī vouchsafe us luck and splendour."<sup>2</sup>

Apart from this general praise, there are lines yielding beautiful patriotic feeling, an unoffending pride in the richness of the country and the religion of the nation, its men and women, and a fond attachment to home and

<sup>1</sup> Rig Veda, II, 19

<sup>2</sup> Atharva Veda, XII, Lp. 35. Griffith's Translation

hearth, besides their heroic traditions and progressive civilisation. The following lines are from the same hymn —

- (a) "On whose surface they enclose the altar,  
And all performers spin the thread of worship,  
On whom the stakes of sacrifice resplendent  
Are fixed and raised on high before the oblation,  
May she this earth prospering make us prosper."<sup>1</sup>
- (b) "Scent that has risen from thee,  
The fragrance which growing herbs and plants  
and waters carry,  
Shared by Asuras, shared by Gandharvas,  
Therewith make thou me sweet, let no man  
hate me.  
Thy scent which entered and possessed the lotus,  
The scent which they prepared at the sun's bridal,  
Scent which immortals, of old collected,  
Therewith make me sweet, let no man hate me."<sup>2</sup>
- (c) "Thy scent in women and men, the luck  
and might that is in males,  
That is in heroes and in steeds, in sylvan  
beasts and elephants,  
The splendid energy of maids, therewith  
do thou unite us,  
Anxious be thy woodlands, anxious be thy  
hills and snow-cled mountains,  
Unslain, unwounded, unshaken, I have set foot  
upon the earth.  
On earth ' brown, black, ruddy and every coloured,  
On the firm earth that Indra guards from danger.  
On whom is food, barley and rice, to whom  
the five races belong,  
Whose castles are the works of gods,

<sup>1</sup> *Ibid*<sup>2</sup> *Ibid*

Whereon men sing and dance, with varied  
shouts and noise<sup>1</sup>,

Further, they loved their institutions and never forget that their life was bound up with them. In praising their country these were naturally remembered as fitting places for the enjoyment of life's amenities. These were their assemblies, gatherings and meetings. The growth of a general admiring love for the native land with all that it contained is reflected in the excerpt below—

Thy many ways on which the people travel,  
The roads for car and wain to journey over,  
Thenceon meet both the good and bad,  
That pathway may we attain without foe or robber.  
In hamlets and in woodlands,  
And in all assemblages on earth,  
In gatherings, meetings of the folk,  
We will speak glorious things of thee,  
Mild gracious, sweetly odorous, milky with  
nectar in her breast,  
May Earth, may Pṛakṛti, bestow, her bounties  
with walk on us.<sup>2</sup>

Lastly a characteristic Hindu prayer "true to the kindred points of heaven and home", according to Professor R. K. Mukherjee,<sup>3</sup> is supplied in the extracted stanza of the hymn under quotation.

"O mother Earth, do thou kindly set me down  
well-established,  
In concord with the heaven, O sage, do thou  
set me in fortune and prosperity."<sup>4</sup>

<sup>1</sup> Ibid.

<sup>2</sup> Ibid.

<sup>3</sup> *Excursions in Hindu Culture*, p. 45

<sup>4</sup> *Atharva Veda*, XII. 1, Whistony's Text.



In the *Mahā Sāhitya*, *Vishṇu Purāṇa* and *Bhāgavata Purāṇa*, an almost Jewish colour is found in the idea of the Fatherland. It is looked upon as "the chosen land" with intense feeling and deep reverence. "The *Mahā Sāhitya* ..... rises to a great height of emotional enthusiasm in the passage in which it defines the limits of the country called *Brahma-Varta*, which is described as "the land created by the gods"<sup>1</sup>. This proud sentiment is repeated in the *Bhāgavata Purāṇa*<sup>2</sup> and beautifully elaborated in another equally popular religious book, the *Vishṇu Purāṇa* where *Bhāratavarsha*, i. e., India, is extolled as—

The best of all countries, where it is only after many thousand births and the aggregation of much merit, that living beings are sometimes born as men—about which the gods themselves exclaimed—"Happy are those, who are born even from the condition of gods as men in *Bhāratavarsha*, as that is the way to the pleasures of paradise or the greater blessing of final liberation. Happy are they who consigning all the unheeded rewards to the supreme and eternal *Vishṇu*, obtain existence in that land of works as their path to him. We know not when the acts that have secured us heaven shall have been fully recompensed, where we shall renew corporal confinement, but we know those men are fortunate who are born with perfect faculties in *Bhāratavarsha*".<sup>3</sup>

This high apostrophising marks an attitude of the Hindu mind comparable only to its natural religious tendency—its spiritual outlook, intimately associated with its religious faith, incarnates equal homage to the gods and the mother country. Consequently it invests the mother

<sup>1</sup> *Maheśwari in Hindu Culture*, p. 16, 2000.

<sup>2</sup> *Bhāgavata Purāṇa*, V, 9.

<sup>3</sup> *Vishṇu Purāṇa*, II, 3. (Mather's adaptation)

country with divine character and position and reverentially surrounds it with the halo of the most sacred glory, and it is a precious heritage handed down by the patriot patriarchs of the ancient times. The people learned to look upon the country as mother by the poetic ascription of motherhood to it in the Rig and in the Atharva Veda, the Śatapatha Brāhmana and the Mahābhārata<sup>1</sup> and the common saying that 'the mother and the motherland are higher than heaven itself' is but the result of this spirit-valued patriotism. Professor Mukharjee says truly "it is doubtful whether in any other literature of the world, we can find similar expressions of patriotism under which the solid material earth becomes transfigured and deified into a spiritual ideal, characteristic of the Hindu mind"<sup>2</sup> It is this idealistic tendency that accounts for regarding the country as Brahmā (God) and the body of the people as Viśva (God)<sup>3</sup> in the coronation oaths of kings. Generally the highest attribute of sacredness was studiously and consistently predicated of the country by the Hindu thinkers and patriotism itself had to pass through the idealising and spiritualising process of Hindu Philosophy.

### The Ahimsa Ideal

Freedom was not the last word on the political ideal of India. The deeper side of political life, which is always unity in its expansive character, had its own value and importance since the Vedic time<sup>4</sup> and political idealism had to join hands with morality and religion for

<sup>1</sup> Rig Veda, IV, 46, VI, 70, Atharva Veda quoted above; Śatapatha Brāhmana, V, 3, I, 33; see Hindu Policy II, p. 34; Anandam Purva U. Udgaya Purva, 75. "Very early Heaven and Earth became ordered with human qualities such as 'not despoiling father and mother'" Radhakrishnan, Indian Philosophy, I, p. 70.

<sup>2</sup> Nationalism in Hindu Civil. p. 35. <sup>3</sup> See Sanyal, Theory of Government.

<sup>4</sup> "Regard all creatures as friends"—Tayse Veda, 120.

plentitude and fulfilment. The Buddhist conception of *ahimsa*, reinforced such idealism with deep ethical and wide social dynamic. In theory as well as in practice *ahimsa* is generalised to the utmost to yield the conclusion that the world is after all kith and kin. When this is done *ahimsa* touches politics at its most vital point and becomes the moral equivalent for war through negative non-injury and positive service. Military conquest has to cease logically and spiritual service takes the place of martial operation and violence. It is an unavoidable and in a sense inevitable conclusion and there can be no escape from it, once *ahimsa* is allowed sway over practical life,<sup>1</sup> which has then to express itself in thorough-going and uncompromising pacific principles.

### "Political Ahimsa and "Pacifism"

But the *ahimsa* ideal and the theory on which it is based prevailed in India long before Buddhist and Jaina

<sup>1</sup> Its practical realisation is reflected in the *Ahimsa* *Uttar* writings, where the authority and flexibility of applied politics are toned down under the dominating influence of morals and religion. The sweeping shift of thought toward the sweeping principle of the republicans *Śaṅkha* points and act towards the armed imperialism of Chanakya Gupta and Chakravya. Ashoka struck the note of *ahimsa* and good-will amidst the still unrelenting doctrine of diplomacy and conquest which ruled the Maurya Empire to the south of its military glory. An unqualified cascade of light was shed by this philosopher king round the country of his birth through his humane policy and wonderful selfless. "There is no higher duty than the welfare of the whole world. Consider particularly the value of life. Let all live with less labour and beyond danger. All ought to try to go forward. Otherwise there is probability of degeneration. Excellent is obedience from slaughter (*śakṣa*) of all living creatures" (Book *Maurya* IV, *Maurya* *Uttar*, *Maurya* *Uttar*, Book *Uttar* III) Professor Theodorich has estimated Ashoka's place in history thus—"Through an account of the necessary activity of *Ahimsa*, India, it appears has been lost to materialism and political greatness, she has doubtless gained in cosmopolitanism and humanitarianism, which are the basic principles of Hindu Society" (*Ahimsa*, p. 147).

<sup>2</sup> This is not here for its theoretical treatment. For an account of Practical *Ahimsa* on a nation-wide scale see Appendix, Note V.

religious ethics. It was common to orthodox Hinduism as well as to Jainism and Buddhism, though in an intensified measure in the last two faiths. The Upanishad-Branyaka Upanishad laid down that "a man's religious gifts are austerity, generosity, rectitude and non-injury"<sup>1</sup> and was followed up by others. The Epic which carried the tradition declared "ahimsā to be the highest dharma"<sup>2</sup> Mann equated Ahimsā with immortality—"In ahimsā of beings immortality is found".<sup>3</sup> The Epic has distinctly and pointedly shown the relation of all virtues to this cardinal quality of ahimsā; they are all contained in it which is their real culmination. "Just as the foot-marks of all other animals disappear in those of an elephant, so all other dharmas (virtues—kinds of righteousness) are merged in ahimsā".<sup>4</sup> Naturally the ethical implications of such an ideal were magnified and enlarged to comprise all beings and every sphere of life.

In Jainism and Buddhism ahimsā held the supreme place and gradually permeated society and entered politics. Chastitas (character) consists of ahimsā, aśrma, asteya, brahmacharyya and aparigraha according to Jainism,<sup>5</sup> which are all rooted in ahimsā. Meekness, non-resistance, restraint, temperance, seclusion and high thoughts make the religion of the Buddha, and he alone is said to be Aryan who does not injure other beings.<sup>6</sup> Professor Das Gupta says—"Ahimsā may be generalised as the fundamental ethical virtue; and judgment on all actions may be passed in the accordance with the standard of ahimsā"<sup>7</sup> "It is thus the highest virtue, the mother of all virtues...

<sup>1</sup> V. S. S., Chāndogya, III, 16, Text E. 2; Śaṅkhya, I, 4; Vāṇī, V, 10.

<sup>2</sup> Nāgārjuna-sūtra, Para, 151; Mahābhārata Para, 151. See also Arjuna Para, 154.

<sup>3</sup> Yoga Sūtra, VI, 63.

<sup>4</sup> Arjuna Para, 154.

<sup>5</sup> Daśyāgrihastaka, 70.

<sup>6</sup> Dharmapala 185-190.

<sup>7</sup> Hist. of Ind. Phil. p. 593.

the virtue of universal goodwill and tenderness".<sup>1</sup> Professor Tachibana has pointed out that<sup>2</sup> "its genetic maxim, therefore, according to the Buddhist Ethical Ideal, would in modern terms be: 'we ought not to hurt mentally and physically our fellow-creatures as well as our fellow men, but to love and protect them'.<sup>3</sup> This is substantially at one with the Suttanipita standard, viz., 'cultivating an infinite loving feeling and being strenuous unceasingly night and day, let him (man) spread good will over all regions'.<sup>4</sup>

That it effectively influenced politics goes without doubt, inasmuch as peace itself is a kind of alms<sup>5</sup> and may be logically subsumed under it. It expresses in the language of the Upan "the attitude of non-injury and the avoidance of strife", which fall under 'the peace-pulse' or peace-ideal, and are equal to righteousness.—"actions filled with almsist mean righteousness done".<sup>6</sup> The Upan is most elaborate on this point and even secular writers like Kautilya and Śakra are definite as to its utility and value. In the shadow of the martial genius of Chandragupta, Kautilya learnt the wholesome yet essentially practical lesson that "It is a sin to cause the loss of life on both sides"—"those who advise . . . to brave danger, sin and violation of wealth are enemies under the guise of friends".<sup>7</sup> There is an element of calculation in it, but the first assertion is categorical enough to the extent of being unlike the author of the Artha-Śāstra, or in short "un-Kautilyan". He adds further that "the collision of an unbalanced sand-vessel with a similar one is destructive to both". Hence "one should prefer peace: for dis-

<sup>1</sup> Ethics of the Hindus, by E. H. Hare, p. 231.

<sup>2</sup> Ethics of Buddhism, p. 104.

<sup>3</sup> Cf. H. Schlegel, Methods of Ethics, p. 320.

<sup>4</sup> Suttanipita, edn.

<sup>5</sup> Naga Parva, 70.

<sup>6</sup> Mahābhārata Parva, 208.

<sup>7</sup> Artha Śāstra, p. 455.

advantages, such as loss of strength and wealth, scheming, and she are ever attending upon war".<sup>1</sup> He is equally aware of the other stern fact of international politics that "no piece of iron, that is not made red-hot, will combine with another piece of iron".<sup>2</sup> Kāṇḍake has repeated Kautilya's thought in the main in the following extract—

"The body, the wife, the friends, the wealth of a sovereign may cease to be of any avail to him within a wink's time, when he launches on war, in which there is every possible danger to his life. These again are constantly jeopardised in war. Therefore an intelligent sovereign should never wage war. What king, who is not a fool, would put his friends, his wealth, his kingdom, his fame and even his own life in the cradle of uncertainty by embarking on war?"<sup>3</sup>

It is in the *Kṛtī* that the peace ideal rises to its highest, having separated itself from the ethics of expediency and the logic of prudence. An analysis of the military mind was possible for it, since its central theme was war of the largest dimension of the time. It found out the truth of the statement "hated does never put down hatred",<sup>4</sup> for "harm comes from harming others and good from doing good to others".<sup>5</sup> The arguments against war may be summarised like this—

"War is caused by the heartless, who through evil intention collect soldiers and forge weapons in order to rob others of their wealth and property".<sup>6</sup>

"Do not wage war or otherwise be ruined".<sup>7</sup> "The best way is to win by concluding peace... the worst to fight to victory".<sup>8</sup> "Who should be prepared to inflict

<sup>1</sup> *Ibid.*, pp. 333, 334.

<sup>2</sup> *Nṛsīṃha Smṛti*, p. 363.

<sup>3</sup> *Aṣṭadhyāyī* Parva, 21B.

<sup>4</sup> *Arthashastra* Parva, 3.

<sup>5</sup> *Ibid.* p. 326.

<sup>6</sup> *Udyoga* Parva, 51.

<sup>7</sup> *Udyoga* Parva, 55.

<sup>8</sup> *Ibid.*

the punishment of war, if danger can be averted by peace and gift'.<sup>1</sup> "In this world forgiveness is unparalleled victory".<sup>2</sup> "The whole world is in his hands, who can through the quality of forgiveness disregard the ill treatment of others. He is fully successful in everything who does not inflict pain on being himself pained".<sup>3</sup> The "sword of forgiveness" is proof against evil.<sup>4</sup> Hence the Epic has designated "warship (respecting as opposed to hating) the non-lethal instrument of punishment".<sup>5</sup> It is also called "the soft heart-piercing non-malefic weapon".<sup>6</sup>

Śakra in later times advised "subduing others by charity and simplicity"<sup>7</sup> and war to be the last thing. "Where there is no other remedy *vigraha* (war) should be undertaken."<sup>8</sup> It is also added in the Epic that "the victory, which is gained by war (by kings), is considered detestable in the assembly of the wise".<sup>9</sup> "It is the duty of kings to conquer enemies without fighting", i.e. recourse to war;<sup>10</sup> even though "war is adhered to when all efforts for peace have failed".<sup>11</sup>

The process of the reasoning found in the Epic is just like that of the *Artha Śāstra*. It is first the palpable facts of war and then the conclusion coming out of such practical experience. The calculation of profit and loss is given below—

"Victory in war is really equal to defeat, since in warfare many loved ones are killed. Thus the victor's reputation, caste and strength as well as sons and brothers are destroyed, leaving remorse only.

<sup>1</sup> Udyoga Parva, 228.

<sup>2</sup> Ibid., 22.

<sup>3</sup> Id. Parva, 75.

<sup>4</sup> Ibid.

<sup>5</sup> *Bhishma-smadikāya* Parva, 81.

<sup>6</sup> Ibid.

<sup>7</sup> *Śakra* 87a-p. 187.

<sup>8</sup> Ibid., p. 244.

<sup>9</sup> *Bhishma-smadikāya* Parva, 84.

<sup>10</sup> Ibid.

<sup>11</sup> Udyoga Parva, 71.

Mostly the good and kind, the heroic and honest people die, but the bad men generally escape. Even if those that are unrelated are killed in war, the result is still great compensation of the heart.... And the man who has thus created enemies can scarcely sleep like one in a snake-infested room. The defeated remnants also try to collect strength.... and to exterminate the victor to his roots. Extirpation may give peace (negatively), but that is the worst barbarity. They are self-destroyed, who search for weaknesses for the destruction of others".<sup>1</sup>

Further, this practical estimate is supported by a well-sustained logical rhetoric, which shows the hollowness of military psychology, as much as the low grade existence of those who live by fighting. No stronger condemnation of the military mind is available in the whole range of Sanskrit literature and nothing portrays so truly the utter degeneration of those who favour armed conflict. They are naturally compared to dogs, whose nature is acutely represented in them—

"The wise have indicated that the fighters are like dogs. The dogs first of all wag their tails, yell, move to and fro, snarl by showing their teeth to one another and then fall to fighting over a piece of meat. At last the strong defeat the weak and eat the bit of meat. Likewise men gain their wished-for object by fighting. The powerful disregard the helpless and then pick a quarrel and the latter bow down before the former. Thus the fish eat up the fish, the dogs kill other dogs and the Kshatriyas destroy their kind, according to their own nature"<sup>2</sup>

The natural conclusion of such a view is that "Kali (the evil genius of the black age) is always present in the

<sup>1</sup> Ibid. 71.

<sup>2</sup> Ibid.



battle field—war is sinful any way it is looked at", also logically "the Kshatriya-dharma (profession) is sinful".<sup>1</sup> Similarly Śukra says—"It (fighting) is not holy"<sup>2</sup> although it is the duty of the caste.

## The Peace Path

"If (considerations of) victory and defeat are left out altogether and the way of peace is followed, happiness and rest begin to be felt (possible)"<sup>3</sup> "It is righteousness to take the path of peace having given up *hiṃsā* (harming) according to the learned sages."<sup>4</sup> "Peace is powerful"<sup>5</sup> and "worthy of worship".<sup>6</sup> "By conquest hatred is increased and by hatred hatred is not destroyed."<sup>7</sup>

When the pros and cons of the whole argument are taken into account and strung together, the profit and loss well calculated, it tantamounts to saying with Kāṇvaśake—

<sup>1</sup> Ibid.

<sup>2</sup> Ibid.

<sup>3</sup> Vāsa Purāṇ, 36.

<sup>4</sup> Ujjaya Purāṇ, 71. Prof Radhakrishnan in commenting on this passage has indicated the source of the idea, which was the key-stone of Buddhist ethics. "The Mahāvastu has"—he says "echoes of the fine side of Buddhism". Again, "Buddhism has left a permanent mark on the culture of India" (Indian Phil. pp 603, 604). The following Buddhist ideas may be compared with the Rgic pronouncements—

"Hatred can never be overcome by hatred in this world, it can only be overcome by love, that is the precept here. The hatred of those will never cease who harbour ideas such as these—he rebuked me, he struck me, he conquered me or he rebuked me". (Dhammapadam, 3-4 and 5; Viryapadam, I, 349, Jaṇḍa, III 212). "Whoever without restraint bears striking, blows, and bonds, who has made patience his strong shield and support him I call (call) Brahman". (Dhammapadam, 303; Suttanipadam, 633). "There is nothing surpassing forbearance" (Samañña-Sādhaka, 659). Let a man overcome anger by love" (Dhammapadam, 303). "He who by meeting pain is intent wishes to obtain pleasure for himself, will never be free from hatred being entangled in the bonds of hatred itself". (Dhammapadam, 381).

<sup>5</sup> Śukra SM, p 161.

<sup>6</sup> Mahābhārata Purāṇ, 599.

<sup>7</sup> Ibid, 59.

"Taking into consideration the loss, the expenditure, the difficulties, and the destruction, etc., involved in war, and weighing seriously its good as well as evil effects, even the ascetic king would rather do well willingly to submit to certain hardships, than launch upon war, for war is ever prolific of evil consequences."<sup>1</sup>

The Hindu view is here emphatically economic and has no appeal to dharma or the law of righteousness. Ashoka saw it clearly as much as others, who gave thought to the subject after him. The pith of the argument is parallel to Mr. Angel's idea<sup>2</sup> and illustrates how it is safer to suffer from hardships than lose that security of life and property, without which the economic basis of the social order would disappear and be destroyed.

The definition of ahimsā shows its all-inclusive character; it takes notice of all living beings with the deepest compassion and the widest devotion. "Not to hurt all beings with mind, body and speech is ahimsā"<sup>3</sup> Its wonderful effect is equally all-embracing—"In the case of (first) establishment of ahimsā, its very practice will remove enmity".<sup>4</sup> The meaning is that when real and pure ahimsā is thoroughly practised, all leave their natural enmity simply by coming near such a person, e.g.

<sup>1</sup> *Ma Ma*, p. 235.

<sup>2</sup> *The Great Illusion*, p. 22 quoted in *Joshi's Mod. Pol. Theory*, p. 56. Mr. Norman Angel certainly writes that "it pays far better to think and feel as members of the universal economic society when a state is in peace, than to think and feel as members of limited political societies when vicarious or war". Kāśmirāśa never anticipated this universal concern of his own outlook.

<sup>3</sup> *Hyamacharya's "Yogasara"* p. 25. "Ahimsābhāṣaḥ sarvabhūtaḥ sparśaḥ śarīrāḥ".

<sup>4</sup> *Pāṇinīya, Yoga-Sūtra, Sāhitya Śāstra* 25. "Ahimsā pratītyāgāya bhāvanāyāḥ viśayāḥ".

pleasant and sufficient. The Buddhist conception of ahimsa reinforced such idealism with deep ethical and wide social dynamic. In theory as well as in practice ahimsa is generalized to the utmost to yield the conclusion that the world is after all his and him. When this is done ahimsa replaces politics at its most vital point and becomes the moral equivalent for war through negative non injury and positive service. Military conquest has to cease logically and spiritual service takes the place of mental operation and violence. It is an unavoidable and in a sense inevitable conclusion and there can be no escape from it, once ahimsa is allowed away over practical life,<sup>1</sup> which has then to express itself in thorough-going and uncompromising pacific principles.

## "Political Abuse and 'Politics'"

But the oldest ideal and the theory on which it is based revealed its truth long before Buddhism and Jainism.

1. Its greatest reflection is reflected in the Asian Indian writings, where the history and reality of applied politics are based down under the confusing influence of events and changes. The sweeping drift of thought, moved on the self-sufficiency principle of the nationalist (Jaiye) point and not towards the social implications of Gandhi Gopin and Chakravarty. Asia stands the new of abstract and good will amidst the still overwhelming doctrine of diplomacy and respect which raised the Marathi Empire to the zenith of its military glory. An unsolicited example of light was shed by this philosopher long since the memory of his birth through his historic policy and wonderful victory. "There is no higher duty than the welfare of the whole world. Consider particularly the value of life. Let all live with less violence and without danger. All ought to try to go forward, advance there is possibility of degradation. Resistance is resistance from danger (dread) of all living creatures." (Book Mark IV, Bhagavadgita Ethic, *Manu-Samhitā* III) Professor Bhattacharya has estimated India's place in history thus: "Though we cannot of the necessary solemnity of Asia, India, it appears, has been less in national and political problems, she has devoted more to metaphysics and humanism, which are the true foundations of India Society" (*India*, p. 140).

\* This is not how the 14th Amendment is intended. For an account of Federalist theory on a writing-style made not typical of John T.

religious ethics. It was common to orthodox Hindūism as well as to Jainism and Buddhism, though in an intensified measure in the last two faiths. The Bṛhad-āraṇyaka Upaniṣad laid down that "a man's religious gifts are austerity, generosity, rectitude and non-injury"<sup>1</sup> and was followed up by others. The Epic which carried the tradition declared "ahimsā to be the highest dharma"<sup>2</sup> Manu equated Ahimsā with immortality—"In ahimsā of beings immortality is found".<sup>3</sup> The Epic has distinctly and pointedly shown the relation of all virtues to this cardinal quality of ahimsā; they are all contained in it which is their real culmination. "Just as the foot-marks of all other animals disappear in those of an elephant, so all other dharmas (virtues—kinds of righteousness) are merged in ahimsā".<sup>4</sup> Naturally the ethical implications of such an ideal were magnified and enlarged to comprise all beings and every sphere of life.

In Jainism and Buddhism ahimsā held the supreme place and gradually permeated society and entered politics. Cāritra (character) consists of ahimsā, saṃpita, mlecya, brahmacharya and aparigraha according to Jainsm,<sup>5</sup> which are all rooted in ahimsā. Meekness, non-resistance, restraint, temperance, seclusion and high thoughts make the religion of the Buddha, and he alone is said to be Aryan who does not injure other beings.<sup>6</sup> Professor Das Gupta says—"Ahimsā may be generalised as the fundamental ethical virtue; and judgment on all actions may be passed in the accordance with the standard of ahimsā".<sup>7</sup> "It is thus the highest virtue, the mother of all virtues..."

<sup>1</sup> V. A. S., Chāndogya, III, 12, Para 1. 2; Śāṅkhya, I, 4, Verse V 16.

<sup>2</sup> Bṛhadāraṇyaka Upaniṣad, Para. 181; Maitheya Upaniṣad Para. 202. 248. Manu Smṛti, 114.

<sup>3</sup> Jñāna Śāstra, VI, 60.

<sup>4</sup> Anuśāsana Para. 111.

<sup>5</sup> Dharmaśāstra, 15.

<sup>6</sup> Dharmapala 185, 200.

<sup>7</sup> Hist. of Ind. Phil. p. 200.

the virtue of universal good-will and tenderness" <sup>1</sup> Professor Tachibana has pointed out that "Its generic maxim, therefore, according to the Buddhist Ethical ideal, would in modern terms be: 'we ought not to hurt mentally and physically our fellow-creatures as well as our fellow men, but to love and protect them'.<sup>2</sup> This is substantially at one with the Suttanipāṭa standard, viz., "cultivating an infinite loving feeling and being strenuous unceasingly night and day, let him (man) spread good will over all regions".<sup>3</sup>

That it effectively influenced politics goes without doubt, inasmuch as peace itself is a kind of *ahiṃsā*<sup>4</sup> and may be logically subsumed under it. It expresses in the language of the Epic "the attitude of non-injury and the avoidance of strife", which fall under "the peace-path" or peace-ideal, and are equal to righteousness:—"actions filled with *ahiṃsā* mean righteousness done".<sup>5</sup> The Epic is most elaborate on this point and even secular writers like Kaṭilya and Śakra are definite as to its utility and value. In the shadow of the martial genius of Chandragupta, Kaṭilya learnt the wholesome yet essentially practical lesson that "it is a sin to cause the loss of life on both sides"—"those who advise . . . to brave danger, sin and violation of wealth are enemies under the guise of friends".<sup>6</sup> There is an element of calculation in it, but the first assertion is categorical enough to the extent of being unlike the author of the *Artha-Śāstra*, or in short "un-Kaṭilyan". He adds further that "the collision of an unbalanced road-vessel with a similar one is destructive to both". Hence "one should prefer peace; for dis-

<sup>1</sup> *Tales of the Elders*, by G. K. Mahto, p. 291.

<sup>2</sup> *Tales of Buddhism*, p. 166.

<sup>3</sup> Cf. H. S. Radhakrishnan, *Methods of Ethics*, p. 129.

<sup>4</sup> *Suttanipāṭa*, 807.

<sup>5</sup> *Rāga Parva*, 79.

<sup>6</sup> *Mahābhārata Parva*, 363.

<sup>7</sup> *Artha Śāstra*, p. 266.

advantages, such as loss of strength and wealth, wounding and sin are ever attending upon war".<sup>1</sup> He is equally aware of the other stern fact of international politics that 'no piece of iron that is not made red-hot, will combine with another piece of iron'.<sup>2</sup> Kāṇḍakā has repeated Kaṇḍiā's thought in the main in the following extracts—

'The body, the wife, the friends, the wealth of a sovereign may cease to be of any avail to him within a wink's time, when he launches on war, in which there is every possible danger to his life. These again are constantly jeopardised in war. Therefore an unelligent sovereign should never wage war. What king, who is not a fool, would put his friends, his wealth, his kingdom, his fame and even his own life in the cradle of uncertainty by embarking on war?'<sup>3</sup>

It is in the life that the poetic ideal rises to its highest, having separated itself from the ethics of expediency and the logic of prudence. An analysis of the military mind was possible for it, since its central theme was war of the largest dimension of the time. It found out the truth of the statement "hired does never put down hatred",<sup>4</sup> for "harm comes from harming others and good from doing good to others".<sup>5</sup> The arguments against war may be summarised like this—

"War is caused by the heartless, who through evil intention collect soldiers and forge weapons in order to rob others of their wealth and property".<sup>6</sup>

"Do not wage war or otherwise be ruled".<sup>7</sup> "The best way is to win by concluding peace.....the worst to fight to victory".<sup>8</sup> "Who should be prepared to inflict

<sup>1</sup> *Ibid.*, p. 321, 322.

<sup>2</sup> *Ibid.*, p. 324.

<sup>3</sup> *Amśānā Pāra*, 113.

<sup>4</sup> *Madhva Pāra*, 3.

<sup>5</sup> *Ibid.*, p. 345.

<sup>6</sup> *Uḍyoga Pāra*, 76.

<sup>7</sup> *Uḍyoga Pāra*, 76.

<sup>8</sup> *Ibid.*

the punishment of war, if danger can be averted by peace and gift".<sup>1</sup> "In this world forgiveness is unparalleled victory".<sup>2</sup> "The whole world is in his hands, who sees through the quality of forgiveness disregard the ill treatment of others. He is fully victorious in everything who does not inflict pain on being himself pained".<sup>3</sup> The "sword of forgiveness" is proof against evil.<sup>4</sup> Hence the Epic has designated "worship (respecting as opposed to hating) the non-fearful instrument of punishment".<sup>5</sup> It is also called "the soft heart-piercing non-metallic weapon".<sup>6</sup>

Śakra in later times advised "subduing others by charity and simplicity"<sup>7</sup> and war to be the last thing. "Where there is no other remedy *vijraha* (war) should be undertaken".<sup>8</sup> It is also added in the Epic that "the victory, which is gained by war (by kings), is considered detestable in the assembly of the wise".<sup>9</sup> "It is the duty of kings to conquer enemies without fighting", i.e. recourse to war;<sup>10</sup> even though "war is adhered to when all efforts for peace have failed".<sup>11</sup>

The process of the reasoning found in the Epic is just like that of the Artha Śāstra. It is first the palpable facts of war and then the conclusion coming out of such logical experience. The calculation of profit and loss given below—

"Victory in war is really equal to defeat, since in warfare many loved ones are killed. Thus the victor's reputation, state and strength as well as sons and brothers are destroyed, leaving remains only.

<sup>1</sup> Udyoga Parva, 262.

<sup>2</sup> Ibid., 32.

<sup>3</sup> An. Parva, 79.

<sup>4</sup> Ibid.

<sup>5</sup> Bhishma-samvada Parva, 82.

<sup>6</sup> Ibid.

<sup>7</sup> Śakra Sm. p. 118.

<sup>8</sup> Ibid., p. 121.

<sup>9</sup> Bhishma-samvada Parva, 84.

<sup>10</sup> Ibid.

<sup>11</sup> Udyoga Parva, 75.

Mostly the good and kind, the heroic and honest people die, but the bad men generally escape. Even if those that are murdered are killed in war, the result is still great compassion of the heart.....And the man who has thus created enemies can scarcely sleep like one in a snake-infested room. The defeated remnant also try to collect strength.....and to extirpate the victor to his roots. Extirpation may give peace (negatively), but that is the worst barbarity. They are self-destructed, who search for weaknesses for the destruction of others".<sup>1</sup>

Further, this practical estimate is supported by a well-sustained logical rhetoric, which shows the hollowness of military psychology, as much as the low grade existence of those who live by fighting. No stronger condemnation of the military mind is available in the whole range of Sanskrit literature and nothing portrays so truly the vital degeneration of those who favour armed conflict. They are naturally compared to dogs, whose nature is acutely represented in them—

"The wise have indicated that the fighters are like dogs. The dogs first of all wag their tails, yell, move to and fro, snarl by showing their teeth to one another and then fall to fighting over a piece of meat. At last the strong defeat the weak and eat the bit of meat. Likewise men gain their wished-for object by fighting. The powerful disregard the helpless and thus pick a quarrel and the latter bow down before the former. Thus the fish eat up the fish, the dogs kill other dogs and the Kshatriyas destroy their kind, according to their own nature".<sup>2</sup>

The natural conclusion of such a view is that "Kali (the evil genius of the black age) is always present in the

<sup>1</sup> Ibid. 71.

<sup>2</sup> Ibid.



battle field—war is sinful any way it is looked at; also logically “the Kshatriya-dharma (profession) is sinful”.<sup>1</sup> Similarly Śukra says—“It (fighting) is not holy”<sup>2</sup> although it is the duty of the castes.

## The Peace Path

“If (considerations of) victory and defeat are left out altogether and the way of peace is followed, happiness and rest begin to be felt (possible)”<sup>3</sup> “It is righteousness to take the path of peace having given up himself (surrendering) according to the learned sages.”<sup>4</sup> “Peace is powerful”<sup>5</sup> and “worthy of worship”.<sup>6</sup> “By conquest hatred is increased and by hatred hatred is not destroyed.”<sup>7</sup>

When the pros and cons of the whole argument are taken into account and strung together, the profit and loss well calculated, it tantamounts to saying with Kāṇḍakea—

<sup>1</sup> Ibid.

<sup>2</sup> Ibid.

<sup>3</sup> Yaṁ Pāra, 58.

<sup>4</sup> Uḅyaṁ Pāra, 75. Prof Radhakrishnan in commenting on this passage has indicated the source of the idea, which was the 49-stage of Buddhist ethics. “The Mahāvastu has”—he says “ethics of the fine side of Buddhism”. Again, “Buddhism has left a permanent mark on the culture of India”. (Indian Phil. pp. 608, 609). The following Buddhist ideas may be compared with the Epic precepts—

<sup>5</sup> Hatred can never be overcome by hatred in this world. It can only be overcome by love, this is the purposed law. The hatred of those will never strike who harbour ideas such as these—he released me, he struck me, he conquered me or he killed me”. (Dhammapadam, 54 and 5; Vinayapitaka I 543; Jāṇāsi, III 312). “Whoever without resentment bears reviling, blows, and bonds, who has made peace his strong stay and support, him I call (good) Brahman”. (Dhammapadam, 359; Suttapitaka 653). “There is nothing surpassing detachment” (Ananyābhikṣa, 443). Let a man overcome anger by love” (Dhammapadam, 347). “He who by viewing pain in others wishes to obtain pleasure for himself, will never be free from being entangled in the bonds of hatred itself”. (Dhammapadam, 351).

<sup>6</sup> Śukra Smṛi, p. 131.

<sup>7</sup> Mahāvastu or Pāra, 103.

<sup>8</sup> Ibid, 58.

"Taking into consideration the loss, the expenditure, the difficulties, and the destruction, etc., involved in war, and weighing seriously its good as well as evil effects, even the assailed king would rather do well willingly to submit to certain hardships, than launch upon war, for war is ever prolific of evil consequences."<sup>1</sup>

The Hindu view is here emphatically economic and has no appeal to dogmas or the law of righteousness. Ashoka saw it clearly as much as others, who gave thought to the subject after him. The path of the argument is parallel to Mr. Angel's idea<sup>2</sup> and illustrates how it is safer to suffer from hardships than lose that security of life and property, without which the economic basis of the social order would disappear and be destroyed.

The definition of *ahimsā* shows its all-inclusive character, it takes notice of all living beings with the deepest connotation and the widest denotation. "Not to hurt all beings with mind, body and speech is *ahimsā*"<sup>3</sup>. Its wonderful effect is equally all-embracing—"in the case of (true) establishment of *ahimsā*, its very presence will remove enmity"<sup>4</sup>. The meaning is that when real and pure *ahimsā* is thoroughly practised, all leave their natural enmity simply by coming near such a person, e.g.

<sup>1</sup> *MH. Stm.* p. 188.

<sup>2</sup> The Hindu *Shāstra* p. 73 quoted in Angel's *Ind. Pol. Theory*, p. 52. Mr. Norman Angel correctly remarks that "it pays more better to strike and take as members of the universal economic society whose interests is greater, than to fight and kill as members of limited political societies whose interests is war". *Samadāya* never anticipated this modernised version of his own outlook.

<sup>3</sup> *Nyāyabindu's "Yogasūtra"* p. 21. "Himsāhimsāyānāṁ sarvāṁ bhūtaṇāṁ apahimsā śāstraḥ".

<sup>4</sup> *Pataliputra Yoga Sūtra*, *Saṁkhya* Pāda 12. "Ahimsā pratyakhyānaṁ itareṣvāpīyānāṁ vatsatyāgāt".

social implications. "Dapda is ever wakeful".<sup>1</sup> It "protects and governs, waking alone when all are asleep".<sup>2</sup> Manu has a closely parallel passage showing the similar operation of danda. It "rules all people, protects them and wakes when they are asleep".<sup>3</sup> "It moves dharma (righteousness), artha (wealth), and kama (object)".<sup>4</sup> "It is established for dispelling darkness (caused by ignorance), for unprotected by dapda all indeed fall into deep darkness".<sup>5</sup>

Ethically its action is equally important—"Dapda judges between right and wrong (i.e. divides the good from the evil) ... nothing could be known (distinguished) without it. Even atheists have to follow it. ... Where dapda is present no sin or deception can exist".<sup>6</sup> "Dharma (righteousness) is really well applied dapda",<sup>7</sup> for it "is ushered in for setting on foot sound morality".<sup>8</sup> Its social significance chiefly concerns politics, of which it is the central doctrine, supplying it with its authority and power. "Dapda is meant for putting the people into good ways. Beshmi has shown the dapda-shaped dharma for setting men to their respective duties". Therefore it "takes the form of the Kshatriya (the ruling class) in the world".<sup>9</sup>

Dapda is created for keeping up (due) distinction of the castes and without it everything will surely go out of order. Through dapda people secure heaven and live in heavenly bliss by discharging their own duties.<sup>10</sup> Manu has declared that "the whole world is rectified by dapda and even the gods and the demi-gods are subject to its authority".<sup>11</sup> "Through it they are all enabled mutually to enjoy the world without straying away from their own parts (var-dharma)".<sup>12</sup> Social order and morality are so

<sup>1</sup> *Haradharacharita* Purāṇa, 130.

<sup>2</sup> *Ibid.*, 30.

<sup>3</sup> *Manu Smṛiti*, VII, 16.

<sup>4</sup> *Haradharacharita* Purāṇa, 33.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, 133.

<sup>7</sup> *Ibid.*, 30.

<sup>8</sup> *Ibid.*      <sup>9</sup> *Ibid.*      <sup>10</sup> *Manu Smṛiti*, VII, 22, 23; *Haradharacharita*

<sup>11</sup> *Ibid.*, VII, 14.

intimately connected that they cannot be separated from each other. *Dharma* means both inward and outward morality combined with the purity of heart and the fairness of dealings, but above all the discharge of duties. The observation of Professor B. K. Sarkar is very appropriate and expressive. He says 'Indeed it keeps all created beings to their respective duties (*sva-dharma*), the "virtues" of Plato or the "functions" of Bradley and other Neo-Hegelians, and makes them co-operate to the enjoyment and happiness of mankind'.<sup>1</sup>

### Empirical View

The empirical view of *danda*, as it is noticed in the Epic in some passages connected with the main drift of its philosophical speculation, is worthy of careful consideration and separate treatment, since it furnishes a different stratum of thought. Accordingly it is found that *danda* is defined as 'that by which everything is brought under control in the world'.<sup>2</sup> 'It is named *danda*, because it bends and punishes—it bends the haughty and represses the proud'.<sup>3</sup> 'It is made for controlling the wicked...and is ever present in human society in all the three ages...and rules the world like the old grandfather'.<sup>4</sup> It rises out of *vyavahāra* (customary law). 'There is no doubt', says the *Mahābhārata*, 'that *vyavahāra* is the root of *danda*' and it 'is *vyavahāra* itself' and as such it resides in the king

<sup>1</sup> *Tol. Theo. & Inst. of Hindus*, p. 305—Similarly referring to the sovereign power of the state in Western Political Theory, Laski says "this authority (i. e. 'of the State as such') has not merely a legal pre-eminence but also a moral pre-eminence as the function of social power...It is the viewpoint of the classical theory that the ultimately unifying authority must be superior just because it unifies... (*Concepts of Politics*, pp. 168—170)

<sup>2</sup> *Rajadharmaśāstra Parva*, 175.

<sup>3</sup> *Ibid.* 22.

<sup>4</sup> *Ibid.* 221.

(*Dharmā nishīha*).<sup>1</sup> This inter-relation between *dapda* (authority) and *vyavahāra* (law) introduces the distinction between *de jure* and *de facto* sovereignty. The birth of *danda* from law and its merging in law are but the two stages of sovereignty—one established by law and the other establishing law. When law is its cause *dapda* is *de jure*, but *de facto* when law is its effect. Their relation is reversible. That is authority issues from law and again law issues from authority. Then the Austinian position is reached by making authority determinate in the ruling head (*chakravartin*).

*Danda* is the source of politics as shown before,<sup>2</sup> because the question of its just and proper application necessitates a science. "All the works of the world are carried through it".<sup>3</sup> Kaṇṇiya has made all the sciences depend on *dapda*, as will be seen later on, which practically comprises every type of human activity.

### Forms of Danda

The material counter-parts, or the forms, of *dapda* in the world, are any and all instruments for inflicting punishment. The *Mahābhārata* has it represented by all the weapons of war and attack prevalent at the time. "Dapda puts on the forms of all the weapons—it pierces and presses some, strikes and falls others; it tears off some and cuts others to pieces".<sup>4</sup> In fact it is the sum total of all the weapons that are or may be in use. In this connection fourteen principal weapons have been mentioned by the Epic as the forms of *dapda*.<sup>5</sup>

Secular writers like Kaṇṇiya, Kaṇṇadaka and Śukra have shown the significance of *danda* by defining it carefully and scientifically. It is true they have not theorised

<sup>1</sup> Ibid.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid. See *Thien, Gerl. in Ind. Ind. p. 40*

about it like Maṇu and the author of the Mahābhārata, but their definitions show the practical outlook they had on this point. According to Kautilya:

"That sceptre on which the well-being and progress of the sciences of Arśakāśikā, the triple Vedas and Vārd depend, is known as *daṇḍa*. Never can there be a better instrument for bringing people under control".<sup>1</sup>

Very large scope has indeed been given to it by Kautilya. It becomes in his hand the central spring for everything. Lastly it has been used by all in the sense of a comprehensive instrument for war, as *daṇḍa* means war, that is applying *daṇḍa* for punishment to an enemy state. Even then it is also equal to control and restraint in general. Kāmandaka finally remarks—

"The subjugation of the unsubjugated and their chastisement is *daṇḍa*'. *Daṇḍa* is known to signify subjection".<sup>2</sup>

Śakra has given the shortest definition from the standpoint of its use in society and its most common and effective application. He says—"Daṇḍa is restraint and punishment"<sup>3</sup>,—since "men as well as beasts have to be governed by adequate *daṇḍa*",<sup>4</sup> following what has already been said of it in the epics and other books on law and politics. *Daṇḍa* as one of the four elements of policy, implying war to be the last of all, had already the recognition of all writers. This four-fold policy is composed of *dāna*, *dāna*, *bheda*, and *daṇḍa* (reconciliation, gift, division and war).<sup>5</sup>

Combining both the views considered before, it is noticed that the authority wielded by the state is re-

<sup>1</sup> Arśa Śāstra, p. 2.

<sup>2</sup> Arśa Śāstra, pp. 208, 12.

<sup>3</sup> Śakra Śāstra, p. 12.

<sup>4</sup> Ibid., p. 128.

<sup>5</sup> Śakra has "peace, purchase, partition, penalty" (Śakra-Śāstra, p. 124.) See Ch. 15, "Indian National Behaviour".

presented in *danda*, which is thus practically the co-existence of the state and which is by nature divine in one case and metaphysical in the other. But its object remains the same under all circumstances, namely, preservation of society, repression of wickedness and performance of duties. Professor R. K. Sarker says "It is the abstraction of that power, whose concrete embodiment is our *majra* or *rajmra* or sovereignty in a state, and which is explained by Figgis as the real divine right of kings". It is "absolute with jurisdiction over all uncontrolled by any entity".<sup>1</sup> In fact the removal or the disappearance of this *danda* is followed by the symptoms of the non-state, of the negation of society and therefore of anarchy, when property ceases to exist, laws vanish, righteousness dies, caste-system begins and confusion sets in, and reversion to the "*mataganyika*" (logic of the fish) becomes the certain result.<sup>2</sup> Here the dire consequences are but the same conditions as necessarily brought in the state, which again eliminated them by establishing order and security, through the force and operation of unavoidable social logic.

The theories of the state and kingship naturally hinge on the doctrine of *danda* as the hinge to turn upon or the sanction which applies to them power and authority. The state is what it is because of *danda*, or the power to coerce, restrain and punish according to need. In other words it has the directing capacity, pre-supposing a judgment of value and its sanction in the shape of *danda* is ultimately based on it. On this ground it is connected with *dharma*, or the ideal of righteousness, applied equally to the state and the individual. *Danda* is not merely punishment or coercion, for it has a purposive purposiveness valued in it, as the guarantee of universal happiness and

<sup>1</sup> *Fed. Theor. & Inst. of Hindu*, p. 303

<sup>2</sup> *Madhvarajadharma Parva*, 55, 138

righteousness.' The Hindu students of political theory set a high premium on the institutions and conventions that make up the artificial thing called civilisation. It is to educate man out of the deplorable mire of primitive license and bestial freedom that government has been instituted—say they. The state is designed to correct human vices or restrain them and open out avenues to a fuller and higher life. And all this is possible because of *dharma* only.<sup>1</sup>

The assumption is naturally pessimistic in taking for granted the devolutionary tendencies of society, when anti-social instincts are prominent and powerful, which have to be transformed in the interests of stability and progress. Dr. Beni Prasad says "the severity of punishment and government keeps pace with the deterioration of human nature".<sup>2</sup> Its other side is the strong belief in the education of human nature and the potential improvement inherent in every man under suitable circumstances.

## Mythological History

A long mythological history is attached to *dharma*, and this serves the useful purpose of clarifying the conception more concretely. After its creation by Śiva (generally supposed to be the god of destruction) it was given to Viṣṇu (the god of preservation), who made it over to Ādiṣa and others. Thus it went to Marichi, Bhrigu, the sages and the protectors (Lokapālas). Kṛp had it from them and transferred it to Manu. Manu in his turn gave it to his sons, in order that they might know the

<sup>1</sup> Śaṅkha Smṛti, III-14-15 Vide Beni Prasad, *Theory of Govt in Asia* Ind. p. 59

<sup>2</sup> Ind. Theo. & Hist. of Ideas, p. 309

<sup>3</sup> Theo. of Govt in Asia Ind. p. 59



sabtle cause of righteousness (dharma). In this way danda was established in the world by Yama.

The abstract side of danda—viz. sovereignty and rulership—has been illustrated in the same mythological strain. Thus Indra was given the charge of the gods, Yama of the ancestors, Kavera of wealth and the Nāgabhas, Vāsishṭha of the Brahmanas, etc. Similarly rulership came down from Indra to Agni, Varuṇa and other eternal gods. The Brahmanas had it from the gods. "The Kshatriyas having obtained the charge from the Brahmanas are now ruling the people according to righteousness (dharma)". Such is the account in the *Epic*,<sup>1</sup> condensed for the sake of convenience.

It seems to be quasi-historical matter handled by the orthodox writers for their own theories and mixed up with the fanciful stories about the origin of the authority denoted by danda. Reading between the lines, it becomes quite clear that this authority was held by individuals as well as by groups, like those of the sages, the protectors and the Brahmanas. The last stage is that of the Kshatriyas, until individual kings became the repositories of the power.

### The Paradox of Danda

The *Epic* gives, in a number of almost unintelligible passages, the character of danda made up of antithetical and contradictory terms. It is difficult to make out the purpose underlying such a description of its nature. That it has some meaning is undoubtedly true and its well balanced diction shows that in its own time it conveyed an import probably lost at present.

The *Mahābhārata* states that "the most powerful danda

<sup>1</sup> *Bhāṣya-mānuṣya* Paris, 111



a good way and bad when used in a bad way. This height of ethelicalness abstraction puts it down as mere force, blind in itself, but useful to proper manipulation. In the GDS even the Absolute is described on similar lines.<sup>1</sup> Further it is shown that punishment can come in any shape in the fulness of time, as due retribution from God, which may take all variable and convenient forms for the purpose of catching the wrong-doer at the exact and the most opportune moment, when he deserves to be taken notice of. The Epic account also admits this interpretation, which will philosophically agree with the GDS.

### Danda and the King

"A ruler in office personifies this *danda*, but the ruler, as a person, is subject to it as every other individual."<sup>2</sup> The ruler or the king is, therefore, called "the holder of *danda* (*acceptre*)"—"*danda-dhara*"<sup>3</sup> or even more directly "*danda*" itself. Both Kāmandaka and Śakra have used this appellation to denote the nature of the office of kingship.<sup>4</sup> The identification is indeed based on the fact that authority, whether it is considered originally divine or mere abstraction of social usage, is transferred to the king, who represents it in the world for the purposes of justice and righteousness. Jolly considers it "an essential attribute of royalty."<sup>5</sup> This very supposition is tacitly uniform and constant in Hindu politics in general. The king presides over the state and regulates it by wielding this great weapon of punishment, which is after all the sole instrument of sovereignty. Consequently it is no wonder that this *danda* was idealised by Manu to the

<sup>1</sup> (GDS, II, 264).      <sup>2</sup> Pol. Theo. & Hist. of the Hindus, p. 203.

<sup>3</sup> See also Jolly, Hindu Law & Custom, p. 383.

<sup>4</sup> The GDS, pp. 10, 22. Śakra Kāśī, p. 22. Vide Gupta, pp. 20 & 9.

<sup>5</sup> Hindu Law & Custom, p. 383.

highest, as the very source of the state, on the method of Australian abstraction, and was ultimately given the position of the guarantor of all social good.<sup>1</sup>

But the use of *danda* does not make the ruler in any sense infallible, nor does its application fall on the people alone. The universal authority assigned to it commands every thing in the world, according to the doctrines which stand at its base. Its double operation is indicated in the significant epithet, "a two-handed engine" cutting both ways", in Professor B. K. Sarkar's apt description of its nature.<sup>2</sup> As it extends its sway over the people, it equally brings the king under its control; there is no exemption nor exception in both cases. In reality its action is much severer and more drastic on the head of the state.

It is indeed "a terror to the people and a corrective of social abuse" since without it, as already illustrated, no system will remain intact. The *Mahabharata* has said, "If there were no fear of *danda*.....everything would have been desecrated, rules and laws would have disappeared, everybody would have taken forcible possession of everything as his own", etc.<sup>3</sup> The same idea has been given by Kāmarāṣaka in a different way—"In this world, where beings are related to one another as food and consumer, when proper chastisements are withheld, the exertion of a king to keep his subjects under control becomes as futile as those of an angler trying to catch fish without the help of a rod."<sup>4</sup> "Through fear of punishment subjects become virtuous, do not commit aggressions and do not speak untruths."<sup>5</sup> Śūkra's observation that "*danda* is the great

<sup>1</sup> See Supra, Origin of State, Ch. I.

<sup>2</sup> It is a Yiddish phrase from Lyofin.

<sup>3</sup> *Purāṇa & Text of Mahab.*, p. 521.

<sup>4</sup> *Trigubhavadharmasūtra* Parva, 33.      <sup>5</sup> *Nai Sam.*, p. 24.

<sup>6</sup> *Sūtra Sm.*, p. 110.

stay of all virtues"<sup>1</sup> sums up the efficacy of *danda* on society at large. Even the king is said to go wrong, when *danda* is suspended.<sup>2</sup>

### Nemesis of Danda

Again, *danda* "carries with it its own nemesis",<sup>3</sup> for it is the most potent instrument of danger to the ruler himself and the powers that be. In this sense it is "the bulwark of people's rights."<sup>4</sup> The maladministration<sup>5</sup> of *danda* may mean anything from deposition to regicide. In such cases *danda* which coerces the people turns on the king himself. The same authority, which protects society against the unsocial actions of its ordinary members, condemns and punishes the ruling member in his position as protector, when unlawful aggression of any kind threatens common interest. Manu has pointed out most emphatically that—

"The most powerful *danda* cannot be exercised by unpurified souls. It strikes with family and friends the king who strays away from righteousness. The monarch who applies *danda* properly prospers with the three elements (of wealth, success and religious merit). But the covetous, haughty and mean ruler is destroyed by *danda* itself."<sup>6</sup>

In the opinion of Kāmandaka, who has no metaphysical bias like that of the law giver, but a practical forecast of results, 'the wrong application of *danda* leads to the fall of the rule.'<sup>7</sup> The power of *danda* actually represents here

<sup>1</sup> Śūtra Nal, p. 181.

<sup>2</sup> *Dāpārthamānāsaka* Parva, 55.

<sup>3</sup> Pol. Theory & Inst. of Hindus, p. 303.

<sup>4</sup> Ibid.

<sup>5</sup> This will naturally include many points discussed under the chapters on "Resistance and Revolution" and "Principles of Parliament", but they are not legitimate parts of this section.

<sup>6</sup> *Manu Smṛiti*, VII, 50, 51.

<sup>7</sup> *Ibid* Sūtra, II, 39, p. 14.

strict justice to all—to the ruled as well as to the ruler—and “hence the doctrine of royal power in Hindu theory” according to Gentil.<sup>1</sup>

The manipulation of *daṇḍa*, meaning in truth the art of governance and the methods and means of state-craft, is not an easy task. It postulates long and careful training as well as wisdom and righteousness. Maun’s advice on this subject is the result of mature legislative experience. No Hindu political writer has been so categorical on the fitness necessary for handling the royal *daṇḍa*. He states explicitly that—

“It cannot be used properly by a king who is foolish, covetous, of untrained intelligence and without assistance.”<sup>2</sup>

Again—

“That king is able to wield it, who is pure, of true words (i.e. promises), courageous, and observant of the sacred scriptures.”<sup>3</sup> “He only, who is qualified himself, is fit to wield the sceptre.”<sup>4</sup>

The *Mahābhārata*, speaking of the science of politics, has taken special care to mention the fact that it is dangerous in the hands of an unrighteous king, the assumption naturally being that in all practical things, apart from abstract theories, the personal element plays a very important part. The line in the Epic is as follows—

“*Daṇḍa* is supreme in the royal dharma (political ethics)”<sup>5</sup> “That dharma (the conduct of the ruling *Kṣatriyas* and therefore the science of *D*) falling in the hands of the unrighteous, produces the harmful fruits like the destruction of men.”<sup>6</sup>

<sup>1</sup> *Ess. of Pol. Thought*, p. 37.

<sup>2</sup> *Maun Smṛiti*, VII, 30.

<sup>3</sup> *Ibid.* VII, 31, p. 343.

<sup>4</sup> *Śrīa Smṛi*, p. 30.

<sup>5</sup> *Bhagavadgītā* Parva, 37.

<sup>6</sup> *Ibid.* 112.

The education of the king is for this reason an ever important chapter in almost all works on Indian politics.<sup>1</sup> The Hindu politicians aimed at raising royal sages (*rajarsabha*) or philosopher kings, for the Hindu had to face the same problem as Socrates, when he pointed out "until either philosophers became kings, or kings philosophers, states will never succeed in remedying their short-comings"<sup>2</sup>. It is such education that was considered necessary by the ancient Indians and the Greeks for safeguarding the state against the danger of its being under the influence of interests not identical with the general welfare of the community. Even Mill has conceded that "the entire business of Government is skilled employment",<sup>3</sup> where, let it be added, character is equally, if not more, important as intellectual and practical capacities. Actually character brings with itself an ethical quality highly prized by the Hindus and the Greeks. Kautilya with a keen eye to the value of careful training observed like Plato<sup>4</sup> that—

"The king, who is well educated and disciplined in sciences, devoted to good government of his subjects and bent on doing good to all people, will enjoy the earth unopposed"<sup>5</sup>.

### Utility of the Doctrine

"By the doctrine of *danda*, then, the whole state is conceived as a pedagogic institution, or moral laboratory,

<sup>1</sup> Dr. N. S. Law's "*Aspects of Ancient Indian Polity*" has an excellent chapter on the "Education of the Ruler", which gives all the information necessary to forming an idea of the importance of the topic from the standpoint of political science.

<sup>2</sup> *Good in Science of Law* by E. James, *Index* 1. Of *Plato*, 'Guardians of the State' (*Republic*, VI).

<sup>3</sup> *Mill's Rep. Gov.*, p. 166, Everyman's Library.

<sup>4</sup> *Republic*, p. 501, G. E. Ross.—"Can you persuade me to select such characters with the safe management of the state affairs when time and education have made them ripe for the task?"

<sup>5</sup> *Artha Śāstra*, p. 11.

as in Greek, i.e. necessarily a Lycurgan harness of course".<sup>1</sup> Is the comment of Prof. Sackar. It becomes an organisation with a definite purpose,—one through which men can grow to the best and highest, vices and weakness being gradually suppressed and eliminated, and *danda* is its great and powerful reagent. Its authority represented in *danda* is not blind, not coercion for the sake of coercion, but has the clear-cut direction which is its end and *raison d'être*. Man has to yield to this authority, (or sanction), for the sake of *dharma*, his own highest ideal, in order that it may be ensured by the state and in the state. The state is in this sense a "necessary institution", while *danda* gives vitality and expression to it.

Again, *danda* may be said to bring into existence the well regulated and properly co-ordinated civil association called society by recognising rights and duties, property and law, and guarding and enforcing them, whenever necessary. It is behind *manusa* (mine-ness or proprietary rights) and *dharma* (righteousness—duty and law), for these require, as on previous explication, some sanction and authority to stand upon. Moreover this authority (*danda*) being in place changes non-state into state, mere living mass into society. Professor B. K. Sackar has appropriately spoken of *danda* as "the efficient cause of the state in Aristotelian terminology" and of government as "by nature coercive" since man's nature is not perfect". Dr. Beni Prasad says—"Behind all this philosophy and mythology of coercion lies the conviction that man is essentially low, vile and selfish and can be kept, only with difficulty and harshness, on the straight path"<sup>2</sup>. It is practically the originator of property, law and punishment in its character of social authority or moral sanction. It is like "the crown"

<sup>1</sup> Pol. Theo. & Inst. of Hindus, p. 363.

<sup>2</sup> Ibid, p. 308.

<sup>3</sup> Theo. of Govt. in Anc. Ind., p. 89.





as sin.<sup>1</sup> This religious attitude had much greater importance to men in his early days in determining his personal notions and expiating them as well.

### Punishment as Retribution

In the Vedic time punishment was retribution from heaven for the transgressions of men. Instances are profuse in the R̥g Veda, illustrating the simplest conception of punishment, self-evident as the effect of evil actions, unavoidable and experienced at every step, for breaking the laws of the gods and going against the moral order upheld by them. A few lines are given below to show how directly punishment is associated with the wrath of the immortals.

'Whatever ordinance of thine, God, Varuna, we violate,  
As human beings day by day, Yet to the stroke subject we not,  
Death-dealing of the angry one, The wrath of the incensed one.'<sup>2</sup> "Whatever wrong against the heavenly race we do, Being men, O Varuna, whatever law Of thine we have broken through thoughtlessness, For that transgression do not injure us, O God."<sup>3</sup>

The retributory idea was extended to all mishaps and calamities and it was natural enough to assign them all to the supernatural working in and through the natural. Kaegi says, "the hymns strongly prove how deeply the prominent minds in the people were persuaded that the eternal ordinances of the rulers of the world were as inviolable in mental and moral matters as in the realm of nature and that every wrong act, even the unintentional, was punished and the sin expiated".<sup>4</sup>

<sup>1</sup> Adapted from Vinogradoff, *Common Sense in Law*, p. 247.

<sup>2</sup> R̥g Veda, I, 26, 1-3; Grasshoff's "Religion of the R̥g Veda", p. 120.

<sup>3</sup> Ibid., VII, 89, 5; Ibid p. 386.      <sup>4</sup> Kaegi-*R̥g Veda* (1936), p. 10.

## Oath and Ordeal

Another way of ascribing punishment to God is the trial by ordeal, which is a much later system, partly religious and partly political. It presupposes the faith that all guilt is punished by God, while innocence is vindicated. Jolly says "the divine judgment is based on the belief in the direct intervention of the deity in order to expose the guilt or to vindicate the innocence and to expiate for the violation of law".<sup>1</sup> In place of the infliction of punishment through human agency it is left to divine action; the human part is to force the offender to take the trial by ordeal in default of other methods to suit the circumstances.

The simplest form of divine judgment, consisted in a Verbal Oath, which is "virtually an ordeal" in Hopkins' opinion, "as the oath invokes divine power that punishes the guilty".<sup>2</sup> Misfortune and degradation were brought down on the man who took an oath falsely or on his dearest and nearest ones in consequence of it. Jolly has pointed out that the "oath formula" comes down from the Rig Veda (7, 104, 16) and is found frequently in later periods.<sup>3</sup> But between oaths and ordeals there is only a difference of degree and not of quality.<sup>4</sup> Nārada says—

"Thus have oaths been proclaimed by Manu for trifling cases. In a suit concerning a heavy crime, divine test should be resorted to".<sup>5</sup>

A Brahmana is to swear by truth, a Kshatriya by his weapons, a Vaishya by the gods and good deeds.<sup>6</sup> In the Mānava code oath is recommended by Manu in the absence

<sup>1</sup> Hindu Law & Customs, p. 330

<sup>2</sup> Nārada, 1, 220-227, S. B. E. XXXIII, p. 27, 28; Camb. Hist. of Ind. I, p. 332      <sup>3</sup> Ibid., p. 313      <sup>4</sup> Ibid. p. 329

<sup>5</sup> Nārada, 1, 120. (S. B. E.). Epitaphs, X. 1. (S. B. E.)

<sup>6</sup> Ibid. I 148, X. 6-9 (S. B. E.)

of witnesses' Qiz. Jayraml says—"This indicates the nature and origin of oath. It stood on the same footing as an ordeal or ordeal was only a form of the oath"<sup>1</sup>

According to Ludwig<sup>2</sup> the earliest forms of ordeal may be as in the Rig Veda, by fire, water and single combat, or by red hot iron file-hatchet as in the Atharva Veda. Weber also holds the same view.<sup>3</sup>

(a) "Let not the wood ten times piled up consume me". (b) "The most maternal streams have not devoured me". (c) "When Tritna would cleave my head asunder, The dāsa wounded his own breast and shoulders".<sup>4</sup> (d) "Felled with a hatchet the man who started this my plan and purpose".<sup>5</sup>

The above are examples of the trial in the Vedic period, but more detailed treatment is met with in the law-books, where it is called "the divine test" in the language of Yājñavalkya. Any man refusing to take it, if charged with crime, established his own guilt *prima facie*. Āpastamba, Yājñavalkya and Vishnu recognise this method of trial and punishment by means of fire, water, poison, balance and sacred libation.<sup>6</sup> Yājñavalkya applies it "in case of very serious crime, when the accused agreed to accept the punishment, if his complaint is not proved"<sup>7</sup>; Nārada is for it "where there is reason for it, but not otherwise."<sup>8</sup> Valmiki and Nārada give very careful directions as to the time and circumstances for the applica-

<sup>1</sup> Kaus, I, III, 180

<sup>2</sup> Mann & Yājñavalkya, p. 105

<sup>3</sup> Der Rig Veda, IV p. 44

<sup>4</sup> Referred to in Griffith's Trans. of the Atharva Veda, Part I, p. 35

<sup>5</sup> Rig Veda, I-108, 4-6, p. 218 Griffith's Trans.

<sup>6</sup> Atharva Veda, II, 38 3, p. 53. Griffith's Trans.

<sup>7</sup> Āpastamba, II, 2, 3, Yājñavalkya Smṛiti, II p. 40; Vishnu Smṛiti IX, p. 91.

<sup>8</sup> Yājñavalkya, II, p. 30    <sup>9</sup> Nārada, I-108, 3, 3, XXXIII, p. 102

tion of 'ouch tests'.<sup>1</sup> Nārada has besides these hot gold and rice tests<sup>2</sup> and is for assigning each of these tests to each of the castes, e.g. "a pitcher to a Brāhmana, fire to a Kshatriya, water to a Vaiśya and poison to a Śūdra."<sup>3</sup> The balance is said to be particularly for women and the weak and the diseased.<sup>4</sup> An exhaustive summary with alternative methods is given in the *Vivantirodaya* of Mītra Mītra,<sup>5</sup> but is unnecessary for purposes of theory. Manu recognises only two ordeals,<sup>6</sup>—by fire and water, as in the Vedic time. Jolly says that from the two main forms of divine judgment by fire and water an intermediate series of five was developed, culminating later on in five different kinds of ordeals.<sup>7</sup>

The application of ordeal, as a judicial procedure, was well-marked out in Hindu Law. In the opinion of Yājñavalkya and Nārada "the proof by ordeal shall be resorted to only in default of worldly proof."<sup>8</sup> Further details, specially legal in character, are found in Kātyāyana and Subodhini.<sup>9</sup> Even so late an age, as that of Śūkra, has taken notice of the trial by ordeal in an earnestly systematic fashion, and in spite of the scientific procedure of the Śūkra-Nīti on many problems of society and the state, this chance vindication of guilt and innocence, as the case may be, has been mentioned as an alternative method. "When *yukti* (right argument) fails, the *dīvyā āśānā* (ordeal) has to be used in the investigation of cases."<sup>10</sup> Again it

<sup>1</sup> Vishnu IX. p. 403; Nārada, I. 187 ff.

<sup>2</sup> B. S. S. XXXIII. pp. 110, 118.

<sup>3</sup> Quoted in Bait's Trans. of Yājñavalkya, p. 80.

<sup>4</sup> Vishnu Smṛiti, IX. p. 143.

<sup>5</sup> Vivantirodaya, pp. 380 ff. Yājñavalkya's Ed.

<sup>6</sup> VIII, 114, see Cassin. Hist. of Ind.

<sup>7</sup> Hindu Law & Customs, p. 313—Bühler, Hopkins and Meyer have also been cited.

<sup>8</sup> Yājñavalkya II, 82; Nārada I. 211. See Hindu Law & Customs, p. 308.

<sup>9</sup> See Appendix, B.

<sup>10</sup> Śūkra Nīti, p. 304.

is said that "when no human evidence is coming forward the ordeal might be prescribed there, and also in such cases as offence committed in solitary places, at the time of night, or in inner apartments, ....and where every fact is denied competently."<sup>1</sup> But the general tendency is to depend on evidence and it is perhaps due to Śakra's own scientific attitude. He has consequently put down the condition that—

"If one party would urge human evidence and the other party divine, the king should accept the human, not the divine."<sup>2</sup> Or, "If there be human evidence, which covers only a part of the case, even that is to be accepted, not the divine, though that covers the full ground, notwithstanding men urging it."<sup>3</sup> And lastly "an ordeal is to be prescribed to the accused only for that is so said in the Śruti, and never shall a judge order an accused to go through any of the ordeals."<sup>4</sup>

It is said that the gods take to it in difficulty.<sup>5</sup> The importance of ordeal in supplying the burning-point to Hindu Law is elucidated in Note 9 in the Appendix.

In Śakra the forms are eight in number. Thus ordeal may be applied in eight ways, namely, fire, poison, water, vessel, (or balance) virtue-vice, rice, and oaths.<sup>6</sup> There is the ninth form in casting of lot in the opinion of Bṛhaspati.<sup>7</sup> The description of how these are employed for the purpose of ordeal and the faith on which these are based do not help the theory of punishment. As to the application of the different forms of ordeal. Here is for theft

<sup>1</sup> Ibid. p. 203.      <sup>2</sup> Ibid.      <sup>3</sup> Ibid.      <sup>4</sup> Ibid. p. 205.

<sup>5</sup> Ibid. p. 203. Recommendation of trial by ordeal in spite of the provision of witnesses is found in Mānava (VI. 3) and Bṛhaspati (X. 3).

<sup>6</sup> Ibid. p. 204.

<sup>7</sup> Bṛhaspati X. 3 (S. B. S.) see Chakr., Hist. of Ind. L. p. 283, Hindu Law & Customs. p. 301. Treat. of Govt. in Anc. Ind. p. 173.

of one thousand, poison for one fourth less, balance for one third less, water for half the amount, wine and vice for half the preceding amount, rice for one sixth. Special consideration is shown according to the class of the accused.<sup>1</sup> Other fields of application vary in different authors, as in *Nār.* I, 337 ; *Bṛ.* 10, 11, 29 ; *Yāj.* 2, 98.<sup>2</sup>

The similarity between the Eastern and Western methods regarding trials of this kind is note-worthy. It was fitly called the "judgment of God" in old England and hinged on the event of the denial of guilt.<sup>3</sup>

### *Political Application*

Retributory punishment in its purely political character was by no means wanting since the Vedic period, the principle being to all intents and purposes a probable development out of that of retribution itself as above. The reference to *wergeld*, (or *vaira-daya*),<sup>4</sup> proves the payment of compensation as the more practical method within human power. It is the equivalent of damage and as such is of paramount importance to the method and principle of punishment. Jolly has indicated "blood-money" to be a "private affair" of those days.<sup>5</sup> Professor Barn has argued by analogy, on the authority of Stubbs,<sup>6</sup> about *wergeld* "as the successor of direct personal revenge, an eye for an eye, a tooth for a tooth,..... limited by the interference of the king."<sup>7</sup> Dr. Das thinks, on the strength of the Vedic Index, II, 331, that the acceptance of compensation for man-slaughter points to the fact that the

<sup>1</sup> *Ibid.* p. 305.

<sup>2</sup> *Manu Law & Customs*, p. 315.

<sup>3</sup> *Concise Hist. of England*, p. 38.

<sup>4</sup> *Fig. Veda*, V, 68, & *Griffith's Trans.*, Also *Cambridge Hist. of Ind.* I, p. 97 ; and *Spastanka* I, 2, 36 ; *Haradhyana*, 1-13-15.

<sup>5</sup> *Manu Law and Customs*, p. 381.

<sup>6</sup> *Const. Hist. of England*, Vol. I.

<sup>7</sup> *Vaira-daya Policy*, p. 50.

sphere of private revenge was being gradually diminished by public opinion and the royal authority<sup>1</sup>. Yet nothing beyond a mere casual connection between offence and due punishment is found in the penal processes of this early age. In later Sanskrit the word "dāya" became technical and meant "legal liability" in the law-books and compensation for murder was juridically recognised by them, according to Hopkins.<sup>2</sup> Thieves were also known and punished<sup>3</sup> in the Vedic age, but the underlying principle is not at all clear. Likewise debts were as well forced to be repaid, though the punishment for non-payment and its nature are not thoroughly known.<sup>4</sup>

Manu is quoted by Sir W. Jones to show the retributive character of punishment in ancient Indian Law<sup>5</sup> in these lines—

"With whatever a low-born man shall assault or hurt a superior even that member of his must be slit or cut more or less in proportion to the injury".<sup>6</sup>

It is repeated in Gautama, Nārada and Viśhṇu and corresponds to the Jewish Law of "an eye for an eye, a tooth for a tooth."<sup>7</sup> This Mosiac equation between offence and punishment is everywhere instinctive and ingrained in human nature<sup>8</sup>, and is admitted by all authorities. Even Kautilya has the same idea—

"The limb of a Śūdra with which he strikes a Brāhmana should be cut off."<sup>9</sup>

Jolly's remarks in this connection are very important. "In the case of mutilation and execution as in other ancient

<sup>1</sup> *Eng. Vedic Culture*, p. 436.

<sup>2</sup> *Cambridge Hist. of Ind. I.*, pp. 242, 251.

<sup>3</sup> *Eng. Veda*, VII, 82; 3 Griffith's Tr.      <sup>4</sup> *Indo-Aryan Polity*, p. 201.

<sup>5</sup> *Institutes of Hindu Law*, p. 102.

<sup>6</sup> *Manu Smṛiti*, VIII, 373-380; also *Gautama XII, 1 & 2, 3, 4, 11*.

<sup>7</sup> *Nārada*, XIV, 46; 4 & 5; *XXXIII*, p. 241; *Viśhṇu V, 26, 6 & 7, 12* VII, p. 47.

<sup>8</sup> *Eng. Polity*, p. 201.

<sup>9</sup> *CE. History, Common Law*, p. 46.      <sup>10</sup> *Artha Śāstra*, p. 247.



systems of punishment, the principle of retaliation (Qalilah) as well as symbolical punishments came into play. The offender or robber shall lose that limb with which he assaults or injures anybody. The slanderous tongue shall be cut off, the hand raised for a blow or the foot raised for kicking shall be done away with..... The lips which spit on a man out of hatred and the thievish finger of a pick-pocket shall be cut off", etc. etc.<sup>1</sup>

In the Mahābhārata punishment as retribution is represented practically in Jewish perfection, and it is also condemned as the lower method. "To pain when pained, to take revenge on him who takes revenge, to retaliate when struck, to do harm in return for harm" are items of retributive judgment recorded in the great Epic.<sup>2</sup> But it is spoken of in the same breath as "conduct which being followed (by men) would destroy the whole world and bring forth unrighteousness."<sup>3</sup> The Epic motive of punishment becomes after this strictness one quite different from the retributive ideal. As a necessity for the up-keeping of the state, or in other words society as a whole, its implications are entirely separate.

### Punishment as Expiation

Spiritual punishment, as the analogue of worldly punishment, is accepted by Indologists like Burnell, Weber, Barth, Keros and Jolly.<sup>4</sup> As a principle it goes back even to the Indo-Germanic period.<sup>5</sup> The washing away of sins was believed to be possible and was but a part of the action of the supernatural. Thus it is folly religious rather than political in any sense. This concept of penance the Hindus had in common with the ancient

<sup>1</sup> Hindu Law & Custom, p. 232. See Theo. of Gov. in Anc. Ind. p. 83.

<sup>2</sup> Veda Purva, 39.

<sup>3</sup> Ibid.

<sup>4</sup> Hindu Law, & Custom, p. 232.

<sup>5</sup> Ibid. p. 232.

Greeks and Romans.<sup>1</sup> Purificatory water is spoken of in the following verse—

"Whatever sin is forged in me, whatever evil I have thought, If I have lied or falsely sworn, waters remove it far from me."

It is supposed that this removed the guilt of the unshed and the deer was then left free. A similar idea is that of expiation for sin or guilt, which had great influence on later literature. A passage in illustration is added below—

"Hasten on in the present days, O India,

For hostile men are making expiation".<sup>2</sup>

At about this time, it ought to be noticed, other practices were developing as ways to magical virtues. Fasting and abstinence were regarded as means of attaining various supernatural powers.<sup>3</sup>

When laws were codified and customs and traditions were being reduced to principles, purification and expiation played the most abnormally important part. Hopkins has described the nature of this process in a few pithy and short sentences "In ancient time punishment for crimes was inflicted by divine judgment or directly by the king or through penance imposed by the priest..... There seems to be here an amalgamation of earlier priestly jurisprudence with later legal practice. Originally the penance was inflicted by the king at the behest of the priest".<sup>4</sup> The law-books give minute details of numberless ceremonies, penances and purificatory rites prescribed for various forms of religious, social and political offences.

<sup>1</sup> The Spirit of Hindu Law, (A. C. Gupta, Cal. Law Journal, Vol. XLII, Dec. 1918, p. 43).

<sup>2</sup> Rig Veda, V. 5 & Griffith's Trans.

<sup>3</sup> Ibid VII. 25, & Griffith's Trans.

<sup>4</sup> Indianism and Philosophy I, p. 111.

<sup>5</sup> Ethics of India, pp. 112, 113.

but all inextricably mixed up together, for they all merit stinging of some sort and therefore fell under a single highest genus. Its political aspect, as crime and secular law-breaking, peeped out of the masses of quasi-religious injunctions bearing on custom and tradition, sometimes explaining or reinforcing them. Hence the peculiarly Hindu theory of punishment is that it purifies sin.

Punishment when rightly and justly administered is considered to atone the offender of the sin attached to his act. This supposition is common to the prominent law-givers and the Mahābhārata. Jolly has quoted them in pointing out that "the criminals, who have received their punishments from the king, are purged of guilt and go to heaven like holy men. . . of course the sin is transferred to the king"<sup>1</sup> and is neutralised. A parallel idea occurs in St. Peter, namely, that "he that hath suffered in the flesh hath ceased from sin".<sup>2</sup>

For expiation through punishment the king is to be approached as the proper and recognized inflicter of condign punishment. It is the punishment, which has the effect of purifying *sin*. The Mahābhārata says "the king should free them [the people] from *sin* by punishing them according to law (righteousness)." The Bhāgavata Purāṇa also has the principle of purification through punishment.' Besides this, Yājñavalkya enjoins that "a person (a case of stealing) should make over to the king a man, reclaiming his own *reededs*. Killed or saved he

<sup>10</sup> *Black Law & Customs*, p. 361. The converse side of the idea is equally stressed by the two groups. *Xpionomika*, *Brochologion*, *Mease* and *Minola* agree that in the case of neglect or pardon of punishment the newspaper's life is borne by the King: (*Xpionomika*, I, 7 80, S. B. E. 73; *Brochologion*, 72, I, I, S. B. E. 278, p. 313; *Mease*, VIII, 315; *Minola*, S. B. E. 673-III, n. 1282).

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attains purification"<sup>1</sup> It is confirmed by *Agastamba*,<sup>2</sup> *Baudhāyana*,<sup>3</sup> *Māna*,<sup>4</sup> *Nārada*,<sup>5</sup> *Udana*,<sup>6</sup> *Samvarta*,<sup>7</sup> and *Valishtha*,<sup>8</sup> and in the last three probably as the general procedure for all offences. Some of the authorities also prescribe other kinds of severe penances under such a case. Hopkins maintains that this "brings up the intricate question of the relation between legal punishment and religious penance".<sup>9</sup>

The Epic accepts this law<sup>10</sup> and has recorded the exemplary conduct of two ascetic brothers, Sainika and Likhita, before king Sudyumna. Likhita ate some fruits from the hermitage of Sainika without his permission and this constituted theft in the conscience of the ascetic brothers. Likhita went to the king Sudyumna, according to his elder brother's advice, to be purified by punishment. This was the only course before them for the purpose of eliminating the sin of the act. The king pointed out the alternative of being pardoned through the royal prerogative. The younger ascetic preferred actual punishment, the elder one having declared the actual infliction of punishment beyond the jurisdiction of Brahmanas.<sup>11</sup> He was punished as he desired and his hands were cut off—at least such is the story in the Epic.<sup>12</sup> Another example is of Krishna's two doorkeepera who asked the visiting sages for punishment, in order to be purified of their sin, as they had somehow insulted these Brahmanas.<sup>13</sup>

<sup>1</sup> *Myśraśaṅkha Śaṅkha*, III, p. 182, see S. B. E. XXVIII, p. 280.

<sup>2</sup> *Agastamba Śaṅkha*, I, 23, 4. Also cf. *Cand. Hist. of Ind.* I, p. 26.

<sup>3</sup> II, 1, 1. S. B. E. XIV, p. 218. \* *Māna Śaṅkha*, VIII, 212.

<sup>4</sup> 48. S. B. E. XXXVI, p. 280. \* *Udana Śaṅkha*, VII, 10, p. 223.

<sup>5</sup> *Samvarta Śaṅkha*, III, p. 246. \* S. B. E. Vol. XIV, p. 121.

<sup>6</sup> *Cand. Hist. of Ind.* p. 210. \*\* *Apaddhama Parva*, 102.

<sup>7</sup> *Brhadharanayaka Parva*, 32. \*\* *Ibid.*

<sup>13</sup> *Tāṇḍyana Parva*, III, 2.

Sarrowsmith has cited the best incident to refute Mill's charge against India in his *Representative Government*.<sup>1</sup> Mill spoke of the Hindus as 'a people disposed to shelter the criminal than to apprehend him.'<sup>2</sup> In fact what was wanted by him had been laid down by Nārada and Śūkra long before him. It was the social policing in self defence, when the rule of self-surrender had ceased to have any power over the criminals. Śūkra says "you should never keep screened, that is give protection to men of wicked activities, thieves and bad characters, malicious and offensive persons as well as other wrong-doers."<sup>3</sup> Professor B. K. Sarkar has elucidated this passage in terms of modern thought. "It is the duty of the people not only not to commit these wrongs, but also to hand over to the police, or otherwise disclose to the state, the existence of the men who are in any way undesirable to society or the state. The whole society is thus to be an information and vigilance committee and an association for public safety."<sup>4</sup> In Nārada the point is pushed forward with ruthless consistency to the effect that "those who do not come to offer assistance, when people are crying out for help within their hearing,.....are likewise accomplices in the crime."<sup>5</sup>

As a matter of fact Mill was not expected to know all about the higher laws of conscience among the Hindus, over against the "laws of civilised government" to which he referred. If self-surrender for personal purification can be made the supreme rule for all offenders, the policing activities of the state and society would be naturally suspended as ultimately unnecessary. A culture, which

<sup>1</sup> *State Papers*, p. 220

<sup>2</sup> *Rep. Govt.*, p. 178. Everyman's Library, Ed.

<sup>3</sup> *Śūkra Niti*, p. 50. Also see Nārada XIV, 29 S. B. E. XXXIII, p. 209

<sup>4</sup> *Ibid.* Note "XIV, 29 S. B. E. XXXIII, p. 209

could produce such conduct, even in a very few men, had undoubtedly something in it of solid spiritual power and substance. It ought to be said as well that India of the time of Mill was not what she used to be in ancient days. Nor can perfect concordance of theory and practice be assumed for any age in any part of the world, East or West.

Expiation presumes that the offender is self-punished being self-convicted, and he is prepared to take on himself the consequences of his own misdeeds. He is self-condemned first, before he is condemned by society. Religious consciousness is here applied to politics, and was perhaps a unique fact in India alone. It was more than simply confessing sin and even giving it up, because it meant in addition the acceptance of legal punishment, as due consequence, and was certainly more courageous than mere religious acknowledgment of failure and fall. This is the individual aspect of that "definite collective sentiment" known as penal law. Boasquart has spoken of "sin against the common good" for denominating crime.<sup>1</sup> In India, it was sin against the absolute good, which was realised in spiritual experience.<sup>2</sup>

### Punishment as Restraint

The restraining function of punishment seems to be the predominant note of the Hindu theorists. Even the

<sup>1</sup> *Phil. Theo. of the State*, p. 36.

<sup>2</sup> *N. B.* The theory of expiation is closely parallel to the *Mantra* doctrine of *adharma* (the cause) or *aparna* (the deed). "When the sacrifice is performed the action leaves such an unseen magical virtue called the *adharma* or the *aparna*, that by it the desired object will be achieved in a mystic and magical way for the *adharma* operates in the sphere of the unseen". [Dr. Gupta, *Hist. of Indian Phil.*, p. 79]. The doctrine of Karma is of course the background. Expiation wipes out the effects of sin to be met with in after life.

doctrine of *danda* itself is mainly based on it, implying check to such an extent, as to rule out the repetition of criminal acts, and to stop evil in favour of the good. In this sense it anticipates reformation, although reformation means the growth of new good habits in place of the old, mischievous ones. Retribution is not expected to achieve such ends adequately, its deterrent action being exerted through the fear of painful consequences. Expiation has the advantage, as already noticed, of anticipating that the sinner will sin no more and probably turn over a new leaf in life.

The restraining principle is evidently connected with protection, which is the prime object of the social application of *danda*. In fact *danda* is for protection, of which restraint is a factor. It is legal in its character, having the limitations set by law, which is its own starting-point. Restraint is consequently the exact opposite of licence.

Gautama in a stray passage has pointed out this principle of punishment which is apparently his own view. He holds that "the creation (primary object) of punishment is for checking the misdoers and wrong-doers".<sup>1</sup> His explicit statement on this point has no qualifying remark to connect it with any other principle. Here punishment is not associated with "tit for tat" or extracting *wergeld* or compensation for the wrong done. Its definite object is to check wrong-doing through penal means, the objective itself points to a qualitative estimate. It is supported by the great law-giver Manu in his *Dharma-Sāstra*.

"Just as the sinner is seen to be held by the noose (net) of the god Varuṇa, similarly the offender is to be

<sup>1</sup> Gautama, XI p. 682. *Datta's Trans.*

repression of the evil is not repressed. This is the Vedic notion of the king".<sup>1</sup>

The above is Kautilya's interpretation of Mann. The word "repression" (from *damsena*) used by the law-giver, is rather strong in this context, but its import is clear in the sense that it does not intend anything very drastic. It is really equal to restraint to the degree that will ensure the successful stopping of the reappearance of the act. Gautama derives the word "dāyda" from the root *dam*=to restrain.<sup>2</sup> There is no reference, of course, to the removal of the cause, since the deterrent element is viewed by itself alone. The Mahābhārata also yields the same principle, but its prescription is stronger and more legal in character. In accordance with its standard, "any one going beyond the law through disregard of them should be punished or killed",<sup>3</sup> so that license may not spread and law may not be turned into dead letters. It is also mentioned in the same place that "those who go beyond control (law and order) should be rightly punished by the king".<sup>4</sup>

It is to be observed that its legal aspect forms its essence; the limits are laid down by law and thus a standard is fixed. Whatever takes place is judged with reference to this prepared back-ground. Restraint means check from this stand-point and punishment is for keeping up this check on individuals. The whole social machinery of Hinduism plays its parts within such allowances and checks, "vidhi" and "nischedha".

### Punishment as Preservation

This aspect of punishment logically falls under restraint, but is at the same time the goal of the principle

<sup>1</sup> *Shiva Smṛiti*, II, 805, p. 625, Kautilya's Commentary.

<sup>2</sup> *Gautama XI*, 26, [S. B. II], *Manu Law & Customs*, p. 272.

<sup>3</sup> *Mauryanukhyanam* Para. 51.      <sup>4</sup> *Ibid.*



of punishment itself; even reformation is a kind of preservation, or in other words, has it for its end. In this respect Mann has struck the very key-note of punishment and shown its ultimate object. He speaks of it generally as—

"Punishments have been prescribed by the sages, so that righteousness may not be outraged and un-righteousness may be cured".<sup>1</sup>

The analogies used by the legislator in the words "outraged" (from *vyāvichāra*) and "cured" (*śikṣamāna*) are those of passion and disease, which are extremely dangerous to social life. As such, these are remedied by due punishment. The suggestiveness though metaphorical is important, even if nothing exactly like the medical view of Lombroso is meant here. It only indicates the distemper involved in unrighteousness. Preservation of righteousness, resulting in social solidarity, is secured through punishment and is a factor in it. An equally suggestive view fraught with potentiality is that of Somadeva Suri, the Jaina writer. "Dapḍa" (punishment) is defined by him as the means of purification like a course of medicine".<sup>2</sup> Again "the punishment awarded to the offender is for the purification of the state" on the authority of Garga, cited for confirmation.<sup>3</sup>

Kaṭiḥṇa, the greatest Sanskrit poet, has beautifully revealed the preserving nature of punishment in his description of the ideal king in his *Raghuvamśaś*. He has portrayed him as "punishing for the sake of preservation those who deserve punishment" and indeed nothing better can be said in defence of the principle of punishment. Thus he has summed up the whole argument in a few words deftly woven together.<sup>4</sup>

<sup>1</sup> Mann *Saṁhitā*, VIII 112.

<sup>2</sup> *Śikṣāśāstrak*, 2 p. 262.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Raghuvamśaś*, Canto, 1 22.

Preservation may be of two types, namely, preservation of society and preservation of the individual—the whole and the part—both implying each other. Both are of intrinsic value, but the part has to be sacrificed in case of danger to the larger whole. As to the individuals the Epic states that—

“In case of their deviating from the law (of righteousness) you (the king) ought to save them by applying just (a deserving) punishment”.<sup>1</sup>

Punishment in such instances becomes the means, direct or indirect, of preservation from further ruin. It respects on the whole necessarily. But an individual, looked at from the view-point of the whole, comparatively loses value and importance. Hence the individual may be sacrificed just as any part for the good of the whole according to circumstances—

“If by destroying an individual or a whole family, the kingdom becomes safe and dangerous it ought to be done” (in the interest of society).<sup>2</sup>

Here the principle of preserving the larger whole at the cost of the part, or parts, is brought forward. The explanation for all drastic methods, like capital punishment etc., is most probably that the persons or persons concerned would be considered to have lost all relation with society and the whole of creation—in short completely outlawed.

The Mahābhārata says that—

“Outlaws (robbers) have not the least relation with men, the celestials, and ancestors. Since the robbers go against righteous law they ought to be destroyed, otherwise they will destroy the whole world”.<sup>3</sup> For “How can the course of the world go on if the wicked are not punished?”<sup>4</sup>

<sup>1</sup> Tīrthskṛānta Parva, 108.

<sup>2</sup> Bhīṣma-smarandhana Parva, 39.

<sup>3</sup> Mahābhārata Parva, 877.

<sup>4</sup> Ibid.

It is also added that "that man may be killed by all, who has done all types of bad works", against God and man.<sup>1</sup> This judgment is evidently based on the system of rights and duties and those who are outside this system can claim no relationship to it or protection from it. Preservation of this system means the removal of those who attack it. Śakra has thus advised the extirpation of those who desire evil of the common-wealth<sup>2</sup> as much as Kautilya, the imperialist,<sup>3</sup> and his follower Kaṇvaśaka.<sup>4</sup> Brihaspati relates capital punishment with the safety of the many from the same point of view<sup>5</sup> and with an additional religious tinge.

From the stand-point of modern criminology the position may be put like this. The purpose of Criminal Law is to defend society and that purpose must be strictly realised, no matter what happens to the individual criminal.<sup>6</sup>

### Punishment as Reformation

This is apparently a late development rising out of the principle of restraint and punishment is then considered to be "for the good of the offender" as in the Bhāgavata Purāṇa.<sup>7</sup> If restraint or prevention is to be permanent, that is, if crime is to be really done away with in the long run, the habit of the criminal needs to be radically trans-

<sup>1</sup> *Manu Smṛiti*, II.

<sup>2</sup> Śakra VII, p. 128.

<sup>3</sup> *Artha Śāstra*, pp. 227, 229.

<sup>4</sup> *Manu Smṛiti*, p. 129.

<sup>5</sup> § 2. II. XXXIII, p. 809.

<sup>6</sup> S. Haurigan, *Criminology*, (Tagore Law Lectures), p. 2. Also Cf. Locin, *Hist. of European Morals*, II p. 50. "A crime is no longer looked upon as the transgression of an individual which could be pardoned by payment of money, but it comes to be looked upon as the act of a person who is a danger and a nuisance to the community and who therefore must be stamped up or got rid of in the interest of society".

<sup>7</sup> X, 14.

formed, and when this is done successfully, the reforms are expected to be lasting. Kautilya and Śukra are very definite in stating this principle, though it is not altogether absent in the canonical legal literature and in the Epic. Many of the rules and aphorisms in these works imply the reformatory idea in order to be anything with meaning and object. It is implicit rather than explicit, nevertheless it is hinted in an unmistakable way. The definiteness of the secular authorities is missed in the canonical writers, while subsidiary means to reformation are formulated by them with the same object in view.

Kautilya, who is more inclined to award the severest punishment than the Mahābhārata, so as to cure the disease as well as the patient at one and the same time, and in whom death sentences and various punishments are certainly much more profuse, has unexpectedly asserted reformation as the soundest principle. He too has used the medical analogy like Manu and is in that respect nearer Lombroso—

"When guilt is got rid of, there will be no guilty persons, but when only a guilty person is got rid of, the guilty will contaminate others".<sup>1</sup>

The passage has a distinct principle to yield even when it is detached from its context. The great politician was speaking of the crimes imported by foreigners, like diseases which travelled with travellers. All the same Kautilya's view is clear. He has made the right diagnosis that guilt or crime spreads from person to person, as a contagious disease, through bad example and bad inducement, ultimately affecting portions of society. He has purposely designated it "contaminating", as it is really so. The right method of dealing with it will be to treat the

<sup>1</sup> *Artha Śāstra*, p. 425.

cause rather than the patient—at least before the patient. It means reformation of the criminal by eliminating the criminal tendencies. But as long as the tendency remains, all efforts will fail, or at the most be partially and temporarily successful in checking the infection.

Śakra in defining punishment lays bare the very source of the reformatory idea. He is fully aware of the fact that habit is at the root of the matter and hence it is desirable that it should be tackled first; restraint consequently becomes one of the means to that end. He says in his own logical fashion—

“Punishment is that which leads to the giving up of bad practices and is restraint by penalties by which animals are kept within check”.<sup>1</sup>

This definition shows that Śakra knew fully all the different springs of action and his attempt is to modify them. In his exhaustive list of bad men he has not left any type out of consideration.<sup>2</sup> For them his prescription is also reformatory supplemented by restraint. Thus he advises :—

“The king should punish such bad men and also those who have been vitiated by bad company and teach them good ways of life”.<sup>3</sup> “The king should bind and restrain the man who commits sin”.<sup>4</sup> “They (criminals) should be bound and transported to islands or forts and employed in the work of repairing roads and made to live on insufficient and bad diet”.<sup>5</sup>

The object of punishment according to Śakra is neither retribution nor restraint, but something higher and nobler—it is in fact the highest end. It stretches beyond mere preservation being in itself a progressive idea :—

<sup>1</sup> Śakra VIII, p. 130.

<sup>2</sup> Ibid. p. 130.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid. p. 130.

<sup>5</sup> Ibid. p. 130.

"The king should always administer punishment for the furtherance of morality and religion".<sup>1</sup>

And in this sense punishment is "the great stay of virtue"—its aim being the advancement and creation of good character, nay the highest type of being. The danger in punishment—it is to be borne in mind—lies in the fact that "others (some at least) are demoralised".<sup>2</sup> Therefore "all the methods and means bear fruits through the king's policy of punishment".<sup>3</sup>

The Mahābhārata and Yājñavalkya both suggest reformation by recommending the reinstatement of men gone astray to their former duties and position. This is redeeming them directly and positively, as it means checking their down-grade drift and then lifting them up, and thus it has an element of the reforming idea in it.

Yājñavalkya desires that—

"Having duly punished (men of his own) family, castes, division and class and the subjects the king should place them in the right path".<sup>4</sup>

The Epic supports it in its more hortative direction which is as follows—

"It is duty to set the mischievous (*auśrya*) and evil-minded men, who are always given to breaking laws, back to the observance of and obedience to laws".<sup>5</sup>

"It is the duty of the king to bring people to good ways of life".<sup>6</sup>

<sup>1</sup> Ibid. p. 101. Cf. Kaṇvaśāstra, who justifies punishment for the progress of justice, as the stimulation of animals is for the sake of virtues (*Śāstra Śāstra* p. 40) and Śūdra who holds that right punishment is really money to the offender (*Śūdra Śāstra* p. 121).

<sup>2</sup> *Śāstra Śāstra*, p. 121.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Yājñavalkya Smṛiti, I, p. 28.

<sup>6</sup> *Mañuśāstra* (Bharatīya) Part II, 68.

<sup>7</sup> *Viśvakarmāgama* Part, 187.

Although these rejections may not fully succeed to secure reformation, yet they are undoubtedly instrumental to it. Restraining and preventing may on the surface be the guiding factors, but when the objective is considered, which means right path and good ways and obedience to laws, the principle becomes quite clear as well as apparent.

### Punishment and Discipline

The survey given above of the different aspects of punishment goes to show a single object for which it is applied and justified, and this too at the last analysis comes to be the preservation of society through education. Whether explicit or not, it runs underneath all the theories. Even when the Western views of punishment are considered, 'as a means of repression or amputation (Plato), educational discipline (Aristotle), a deterrent (Bentham), moral atonement (Kant), medical treatment (Lombroso)',<sup>1</sup> the object is not left out, nor does it pass out of view. From the stand-point of the object itself the safest and sanest theory would naturally lead to the educational or disciplinary character of punishment.

Kauṭilya emphasised discipline, both artificial and natural, for the purposes of safety and security. His aim evidently was to educate men to be good citizens through punishments applied with care. He says—

"Punishment which alone can procure safety and security of life depends on discipline. Discipline is of two kinds ; artificial and natural".<sup>2</sup>

According to the *Artha-Śāstra*, natural discipline only unfolds the faculties that are already there, but artificial discipline probably serves as external checks for creating habits.<sup>3</sup> But Kauṭilya is not quite clear as to what he

<sup>1</sup> *Encyclopedia, Common Sense in Law*, p. 244.

<sup>2</sup> *Artha-Śāstra*, p. 12.

<sup>3</sup> *Ibid.*

leads to this distinction between natural and artificial types of discipline.

### Kinds and Conditions of Punishment

Jñān, on the testimony of Nārada, distinguishes only between "corporal punishments and fines".<sup>1</sup> But punishment has been broadly divided into four classes in political and legal literature. Variations issue out of these, such as ostracism, excommunication and banishment.<sup>2</sup> The primary types are given below—

- (a) Dhikḥr-dapḍa (saying do), i. e. moral disapprobation,
- (b) Vāg-dapḍa (verbal punishment),
- (c) Artha-dapḍa (fines),
- (d) Vādha-dapḍa (capital punishment).<sup>3</sup>

These fall under mental, verbal, and corporal punishments.<sup>4</sup> Manu mentions imprisonment, blading down, and corporal punishments of different kinds.<sup>5</sup> Kauṭilya has repeated all kinds of punishments many times—fines about 340 times and capital punishment more than twenty times. No author is so perfect in enumerating punishments and in prescribing them at length.

But all such punishments have to be applied according to conditions laid down in the writings of standard authors and to be proportionate on the whole, and also they have to be inflicted with *yukta* (reason),<sup>6</sup> in order to avoid all "abstract judgment", so strongly condemned by Hegel. "The guiding principle in awarding punishment" says Mr. Jayaswal, "is laid down in the *Mānava Code*, VIII, 124.

<sup>1</sup> Hindu Law & Customs, p. 290.

<sup>2</sup> Yājñavalkya, II, p. 148; III, 111, p. 153.

<sup>3</sup> Mokṣadharma Purāṇa, 187. *Manu Smṛiti*, VIII, 125-126; Yājñavalkya, I, p. 19; *Śukra-Niṣ*, p. 203.

<sup>4</sup> *Vāca Purāṇa*, 138.

<sup>5</sup> *Manu Smṛiti*, VIII, 112.

<sup>6</sup> *Śaṅkharāmanas Purāṇa*, 15.



The following matters had to be taken into consideration with thorough analysis (*tatvatah*)—(a) *anubandha* (motive), (b) place and time (circumstances), (c) capacity of the criminal, (d) the crime itself.<sup>1</sup> Vishnu says that "he (the king) shall administer punishment to those who deserve it proportionate to their guilt" and so does Kautilya.<sup>2</sup> The general rules accepted by all authorities are—

"The king should inflict punishment having considered the age, strength and circumstances of the people".<sup>3</sup>

"Having duly weighed the intention, place, time, strength and offence the criminal should be punished" by the king.<sup>4</sup>

Such rules helped justice as well as the criminal. They had that humane element in them which "tempered justice with mercy". Hence the king is advised to "properly create (*deviae*) the forms of punishment".<sup>5</sup> In fact the paramount need for such procedure is pointed out in the modern time.<sup>6</sup>

The standard punishments for the castes are given in the *Mahābhārata* as—

"For Brāhmanas harsh words (reproach and disapprobation), for Kshatriyas stoppage of salary, for Vaiśyas surrender of commodities, for Śūdras confiscation of everything would mean condigna punishment".<sup>7</sup>

<sup>1</sup> Ilam and Yājñavalkya, p. 63.

<sup>2</sup> Vishnu, III, 35 p. 333.

<sup>3</sup> Artha Śāstra pp. 71, 342, 343.

<sup>4</sup> *Mahābhārata* Parva, 167.

<sup>5</sup> *Manu Smṛiti*, VIII 126; VII 15; Yājñavalkya, I, p. 49, II, p. 113; *Vaiśakhya*, p. 333; *Yadnya*, 131, 150, 324.

<sup>6</sup> *Yadnya*, 131, 35, p. 333.

<sup>7</sup> *Truth, Moral Philosophy*, pp. 263-290.—The offender, the offence, and its cause have to be remembered.

<sup>8</sup> *Mahābhārata* Parva, 30.

## Punishment and Laissez Faire

When the Laissez Faire ideal is brought to bear on the

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"Can the virtue arising from mercy come out of punishment? How can good accrue to a king through the punishment of his subjects?"<sup>1</sup>

The solution of such a difficulty is given by the Epic in its conception and application of *ahimsā*. Of course virtue as a spiritual idea was all along the back-ground of Hindu politics in almost all its aspects, theoretical as well as practical.

The *Mahābhārata* speaks of *ahimsā* as a kind of punishment, or in other words, puts *ahimsā* in place of punishment—

"Kings should govern their subjects through good treatment and behaviour. If the subjects are governed by punishment in the shape of *ahimsā*, the good have not to suffer from oppression."<sup>2</sup>

Such a position ensures latitude to the people as well as the elimination of harsh and hard methods and stops too much paternalism on the part of the state. It is really the principle of love and trust joined with mercy, yet more than mercy and royal favour.

### Brahmanical Privilege

As in the case of taxation, the Brahmanas had the privilege of being exempted from punishment, probably since the time of the *Atharva Veda*, V. 18, 14, mainly on cultural and spiritual grounds. The one significant condition on which it is based is that—

"He who has real contact with Brahman (God, the Absolute) through concentration and austerity (tapas) is the highest (of beings) in this world. Such a Brahmana can never be punishable."<sup>3</sup>

<sup>1</sup> *Sama Sūta*, p. 134.

<sup>2</sup> *Mahābhārata Parva*, 106.

<sup>3</sup> *Tana Parva*, 154.

This dictum was evidently unduly generalised in many cases and the result was that Brāhmanas, and not Brāhmanhood, were free from the infliction of punishment.<sup>1</sup> That a real Brāhmana, that is one who has the qualities of a highly cultured soul, and who has risen above worldly things, cannot naturally do anything wrong so as to be punished, is a fact needing no explanation. It is similar to the idea in John's Epistle that spiritual rebirth is proof against sin.<sup>2</sup>

Another object for allowing this privilege to the Brāhmanas is that—

"Brāhmanas should never be punished.....because being properly respected, they preserve the Vedas (knowledge) on the earth."<sup>3</sup>

But a quite sentimental plea is advanced, in addition to this reasonable ground, in favour of good and learned Brāhmanas—

"In Manu's opinion the Kshatriya is produced out of the Brāhmanas.....Hence a Kshatriya trying to kill a Brāhmana (in extreme cases) becomes himself exhausted."<sup>4</sup>

Bad Brāhmanas, that is those who acted unworthily regarding Brāhmanhood, were within the range and the jurisdiction of the king's punishment. The Mahābhārata and the Mānava Dharma Śāstra state clearly that—

"But if Brāhmanas become oppressive (unrighteous) in any way they should be certainly punished.... There is no sin in beating an unrighteous Brāhmana."<sup>5</sup> Even the religious precept is not to be excepted in this respect.<sup>6</sup>

<sup>1</sup> Rājadharmasūtram Parva, 39 ; Manu Smṛiti, VII, 38.

<sup>2</sup> "Whoever is born of God death not overtake him, for he need not die, as he is ; and he cannot sin, because he is born of God" (1. Jo. iii. 9).

<sup>3</sup> Rājadharmasūtram Parva, 35.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid 34, p. 378.

"A Brāhmana, who goes against the religious observances of others by accepting gifts and performing ceremonies and thus falls from (the standard) righteousness, should be made to suffer punishment."<sup>1</sup>

The general rule is that "none is above punishment from the king" in case punishable conditions prevail at all.<sup>2</sup> As a matter of fact the proportion of punishment was much higher in case of Brāhmanas than in those of the other castes.<sup>3</sup> The higher the caste the greater was the whole scale of punishment. Hence the idea that all Brāhmanas could go without punishment having done wrong was limited by the rules cited above. Although the Brāhmanical privilege was abused for some time, the ideal on which allowances were made to the class was one of great utility. Vāśiṣṭha's sweeping statement is to be considered carefully together with those of Parāśara and Atri.

"The king shall punish that village, where Brāhmanas neglect of their sacred duties and ignorant of the Vedas subsist by begging, for it feeds robbers."<sup>4</sup>

It ought also to be noted that The Pali Texts know of no privileged position of the Brāhmanas in the eye of law; rather the statement of the *Madhura Sutta* that "a

<sup>1</sup> *Manu Smṛiti*, IX, 273.

<sup>2</sup> *Ṛgveda-samhitā* Parva, III; *Manu Smṛiti*, VIII, 222. *Kaṇva* has punishment for Brāhmanas but not others. His prescription includes branding of the forehead and mutilation (Artha Śāstra p. 277). But the *Ṛg* whole insists the flogging of Brāhmanas under ordinary circumstances. (*Udyoga Parva*, 51, p. 484)

<sup>3</sup> *Manu Smṛiti*, VIII, 222; *Crastina Smṛiti*, XII, p. 684; S. B. E. II, p. 229.

<sup>4</sup> *Vāśiṣṭha*, III, 4 S. B. E. XIV, p. 71. Cf. also : 22 p. 260 (*Datt's Treatise*) who says the same thing precisely as well as *Parāśara*, 1-34. See *Text of Datt in Am. India*, p. 192.

criminal, no matter whether he is a Brahmana or belongs to any other caste would be executed, appears in a number of passages of the *Juṣṭas*, where any one speaks of the execution of a Brahmana, as in I, 371, 439.<sup>11</sup> Even *Tapanis* (sacred) were not beyond punishment according to the *Epā*, which enjoin punishment for them.<sup>12</sup>

## CHAPTER XII

### THE RISE OF PROPERTY

### General Meeting

In Sanskrit vocabulary property is subsumed under the word "artha", a generic term deep as well as wide, standing as the second among the four categories of human life,—dharma (righteousness), artha (wealth), kama (objective) and moksha (salvation). A long process of gradual crystallisation brought into it all the various meanings, which became attached to it in course of time. These may easily be referred backwards to the different periods of growth, but here they are alluded to merely in an introductory fashion without any philological emphasis. The Lexicographer Amara of C. 800 A.D. gives the following meanings of artha, which disclose the development of the concept stage by stage. Among relevant synonyms mentioned in his work are—a thing (vatsu), need (prarojana), purpose (abhidheya), earning (vitat), property (svapatera), wealth (dhanam), fortune (vibhava).<sup>2</sup>

<sup>1</sup> *Evans, Second Circuit Certiorari n. 107; Holmes's Theory*.

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<sup>10</sup> *Leaves of Grass*, pp. 242, 252. Collected Edition.—

<sup>10</sup> "Let the dead bury their dead." *Matthew 23:29*.

En un año, después de haberse casado, el matrimonio de los dos jóvenes se vio afectado por la crisis económica que se estaba viviendo en el país. El esposo de la mujer, al estar en una situación económica precaria, decidió irse a trabajar a otro país, dejando a la mujer sola y sin recursos económicos. La mujer, al estar sola y sin recursos, decidió irse a vivir con su familia, pero al estar allí, se dio cuenta de que su familia no la aceptaba y que ella era una carga para ellos. Finalmente, la mujer decidió irse a vivir sola y buscar trabajo, pero al estar sola y sin recursos, se dio cuenta de que no podía hacerlo y que necesitaba ayuda. Finalmente, la mujer decidió irse a vivir con su familia, pero al estar allí, se dio cuenta de que su familia no la aceptaba y que ella era una carga para ellos. Finalmente, la mujer decidió irse a vivir sola y buscar trabajo, pero al estar sola y sin recursos, se dio cuenta de que no podía hacerlo y que necesitaba ayuda.

All these words show a close connection between the underlying ideas, and this connection is clearly revealed by an analysis of them. Thus a thing is the material form of a need which it somehow satisfies. A purpose is the psychological side of it, and earning is exchange of labour for property and need, while wealth is accumulated property in the most comprehensive shape—in short fortune. In a dictionary of synonyms no explanation can be expected for the terms, yet it shows the precipitate of the ideas already highly advanced and mature at the time of the dictionary-maker. In about 300 B.C. and long before Ariana, Kaṭilya technically defined "artha", like Mill, as "the subsistence of mankind" and even "the earth which contains mankind is also termed artha".<sup>1</sup> Śakra spoke of "the earth as the source of all wealth".<sup>2</sup>

### Psychology of Property

The psychological basis of property deserves to be treated before its political aspect, not only because of the natural relation it bears to the genesis of property, but also for the fact that a better understanding of its origin and growth calls for it. For purely psychological analysis and ethical vision, the Brīhadāraṇyaka Upaniṣad supplies the earliest thought on the subject and the basis for ritualistic morality as in Manu and the Mahābhārata. The moral responsibility of possessions is a never-ending theme with the Hindu moralist, but nowhere else is found the exact reason why property is desired in its widest sense. Says the Brīhad Āraṇyaka—

<sup>1</sup> *Artha Śāstra*, p. 218. Mill has fully endorsed it in his query—

"But is there nothing recognised as property except what has been produced (by labour)? Is there not the earth itself, its forests and waters, and all the natural riches above and below the surface? These are inheritances of the human race". (*Prin. of Pol. Econ.* p. 400).

<sup>2</sup> Śakra Nāṭ p. 22.





the supplementary, yet intimate connection between the two. This figure of speech is too common in Hindu thought and it points to a unity of parts, which, though strictly inapplicable to this case, yet shows the importance of property to the self for expanding and expressing itself.

Such an analysis, as the above, of the oldest of the Upanishads is quite in keeping with modern psychological ideas that property completes the will. That is to say, it is some form of self-completion, whether it is collected wealth or daily earning as means to acquire property. In this sense property is said to be "objectified will"<sup>1</sup> and here the bit of Hindu psychology already quoted is sound and very modern in its outlook. It explains wealth, whether it is possession or property, as the manifestation of the will or of the instinct of acquisition. The purely pragmatic import of property discloses another side of the topic and is deducible from the relation subsisting between the self and property. Somaśekhara Sastri emphasised its utilitarian character in exhibiting property according to Hindu terminology as "that is wealth through which all needs are satisfied (supplied)".<sup>2</sup> In Nārada it is the means and medium of "all transactions".<sup>3</sup> This old idea of property fairly corresponds to the modern concept of "commodity" in general.<sup>4</sup>

The Upanishadic conception of property indicates that the possession of property appears at first to be a means to the satisfaction of wants, which are mostly primary, but it is really the "first embodiment of freedom and an independent end". The avidyā self must give to his freedom an external form for the sake of reaching the completeness involved in the idea of property. Thus it

<sup>1</sup> Bourgeois, *Phil. Trans. of the State*, p. 241.

<sup>2</sup> *Pratyaśāntiśāstra*, p. 10—"yathā sarvasamprajñānāni sa 'vishat'".

<sup>3</sup> B. B. B. XXXIII, p. 31.

<sup>4</sup> See Capital, p. 1.

may be stated in Hegelian language that "property is the embodiment of the particular will".<sup>1</sup>

The *Bhṛat-Āraṇyaka* takes the naked self<sup>2</sup> only, or the individual as he is in his unqualified simplicity, or in other words his very personality without further elaboration due to education and progress.<sup>3</sup> And then when it shows the relation of the self to property, it lays down the true principle that property is the self expanded just as the circumference is mathematically the extension of the centre on all sides.<sup>4</sup>

### Rise of Property

The origin of property as an institution is a political question. It is in reality an index to the social stage in which it appears, just as has been directly brought out by the *Mahābhārata*.<sup>5</sup> Political thought characterises it first as possession, indicating its cradle from before the birth of the state, and as property proper when state-laws come into operation. These may be called *pre-state* and *post-state* property;<sup>6</sup> or as mere *possession* unregulated by law and *regular property* as a political concept.<sup>7</sup> The purely natural and industrial stage of property is represented in *Māra*, just as its social and political stage is found in the *Mahābhārata*, but both influenced more or less by the Buddhist traditions.

<sup>1</sup> Hegel: *Phil. of Right*, Dyke's Translation, pp. 48, 49, 50.

<sup>2</sup> This is clearly seen when the self (jīvan) in the process of evolution is taken up by the Universal in this connection of the very start and represented as starting with the creation and wealth for sacrifice. [See *Bṛhad-Āraṇyaka Upaniṣad*, p. 182. *Vaid Vihāra Ed.*]

<sup>3</sup> adopted from Hegel's *Phil. of Right*, Dyke's Translation, p. 52.

<sup>4</sup> Cf. Derring's famous phrase—"extension of the periphery".

<sup>5</sup> *Bhishma-parva*, *Arjuna Parva*, 43.

<sup>6</sup> Cf. Gertra, *Phil. Theor. of the Mod. Age*, p. 5.

<sup>7</sup> Cf. Rousseau, *Social Contract*, p. 19, Coler Edition.

A few words in passing are necessary here before entering upon a discussion of the origin and nature of property. The whole problem is finally one of rights and how such rights can arise. Jolly says "the essence and origin of ownership have been the subject of philosophical discussions even in very ancient times in India"<sup>1</sup> It was a matter which called for a satisfactory explanation. The Hindu legislators and their schools of law knew that there is something indefinable in ownership.<sup>2</sup> The condition, which introduces right and ownership, resolves itself into possession (or occupation) and creation (or labour). The theory bifurcates at this point—at first property is based on occupation as the most natural method and then it is based on labour which is rather artificial in character. The Buddhist idea of property and that of Manu represent occupation and labour respectively. In Indian thought labour seems to be earlier than occupation and probably it is so naturally and in fact. They also mark the difference between Grotius and Locke on this topic.<sup>3</sup>

But it is patent that labour and occupation are the two poles of the origin of property ultimately merging into one, for occupation itself is a form of labour, implicitly assumed in all theories, and explicitly explained by Śaṅkha to some extent.<sup>4</sup> To begin with the appearance of property, it is evident that everything in the world owes origin and

<sup>1</sup> Hindu Law & Customs, p. 106.    <sup>2</sup> Ibid. p. 107; e.g. Śaṅkha's Saṅgṛaha.

<sup>3</sup> Cf. George, *Conflict of Labour*, p. 85; Hitchen, *Natural Right*, p. 106.

<sup>4</sup> Śaṅkha Pīṭh, p. 103. It is interesting to note that Śaṅkha does not recognise occupation or possession as a source of right. "A man is not the owner of property because it is held by him. It is not based on the case of thieves when somebody's property is being held by somebody else" (Śaṅkha Pīṭh, p. 103). To answer Śaṅkha the view of Xenus and Locke has to be adopted. Cf. Nyāyaśāstra, who thinks "Nyaya (acquisition) is a claim superior to that of possession" in a general way (II. 37, *Uttar's Treatise*, p. 60).

existence to God and property is no exception. In the *Mahābhārata* all property is creation of God,<sup>1</sup> that is to say made out of original matter subsequently appropriated by man. Manu and Yajñavalkya consider labour to be the source of property, since personal labour clothes things with right, while God-created things are common to all. The Buddhist account takes no notice of the element of labour involved in property, which is of course fundamental in Manu and Yajñavalkya, while Śāstra does not at all admit the validity of occupation and possession.<sup>2</sup> Such a position naturally brought in the Trust Theory of property, as a distinct and highly significant contribution, because trust assumes something existing from before to which there is no claim to be made on any ground.

### Buddhist Account

(a) The Buddhist tradition, which is probably chronologically earlier but has a later colouring, traces property back to the state of nature in which everything was common to all, being used according to needs. Proprietary demarcation was the effect of the selfishness of individuals, who tried to appropriate more than their share as provision for the future. Thus it is related that—

"If these beings (primitive men) wanted rice to eat in the evening or in the morning, they would go and get what is requisite, but it happened that one being, who was of an indolent disposition, took at one time enough rice for evening and morning. Now

also Manu VIII. 200, *Nārada* I. 34, 35; *Dharmapala*, IX. 79. See *Jolly, Hindu Law & Customs*, p. 121. Also see "Analysis of Ownership" in the Appendix. Foot 10. Cf. Rousseau's "A Discourse on the Origin of Inequality," Ch. 2.

<sup>1</sup> See Trust Doctrine below.

<sup>2</sup> See *Gopas*, *State* 4, p. 108.

another being said to him, "come let us go for rice." Then he answered him, "Look after your own rice, I have taken enough at one time to last me morning and evening." Then the other thought, 'Good capital ! I will take enough rice for two, three, seven days ;' and he did accordingly. Then it happened that someone said to this person 'come let us go for rice,' but he answered him, 'Look after your own rice ; I have taken enough at one time to last me two, three, seven days !' 'Good capital !' thought the other, 'I will take enough rice for a fortnight, for a month ;' and he did accordingly.

And because these beings took to laying up provisions of this spontaneously growing rice, it became coarse ; a husk enveloped the grain, and when it had been cut it grew wet up again, but remained as it had been left. Then these beings assembled together in scores . . . and said, 'Let us now draw lines of demarcation and establish boundaries between each one's property' (portion). And so they drew lines of demarcation and set up bounds—"this is mine—this is thine" (they said). Now this is the first appearance in the world of a system of boundary lines and this (boundary) is right or not right according to the king's decision, for he is the Lord of the Law."<sup>1</sup>

It is to be noted that the necessity for political society is seen in the rise of property according to the Buddhist view, which is more comprehensive and better connected than Mauss's treatment given below. Regulation of property and the assignment of rights introduce an assessor who is the first political head. The rudiments of proprietary right are also indicated, though not so pointedly as in Mauss.

<sup>1</sup> Rothell's *Buddha*, pp. 5-6.

## Manu's View

(b) Manu gives the essentially individualistic conception of property in its most primitive or merely labour-produced form, when the state had no existence, nor even society of any kind other than the presumably nomadic without any trace of system. It seems Manu goes back in substance to a stage earlier than that pictured in the Buddhist record. He does not speak of any conflict with other individuals or any consequent pressure for regulating property and right, but only defines the condition of the right to property, which appears to be intuitive, or natural. Such right is based on industry (labour) becoming proprietary at once, or in the language of Locke "labour was to be the title to it." Manu has declared—

"According to ancient authorities the land belongs to him, who first cleared it of forests and a deer to him, who pierced it first with his arrow."<sup>1</sup>

The Hindu legislator has not mentioned the names of the authorities he was following, but it is clear that there was this old tradition in his time. It is in keeping with Locke's treatment of the same subject. These hints from the English philosopher are parallel to Manu's in thought and language—

"As much land as a man tills, improves, cultivates and can use the products of, so much is his. Thus the law of reason makes the deer that (American) Indian's who hath killed it."<sup>2</sup>

But later on Locke deals with property just in the same way as the Buddhist account has done above. The principles involved are the same, for he went on to say that—

<sup>1</sup> Manu Smriti, IX, 44.

<sup>2</sup> Civil Government, pp. 28, 29, Conell's Edition.

"This is certain in the beginning, before the desire of having more than man needed has altered the intrinsic value of things, which depended only on their usefulness to the life of man.....Though man had a right to appropriate by their labour, each one to himself, as much of the things of nature as he could use, yet this could not be much nor to the prejudice of others, where the same plenty was still left to those who would use the same industry..... The increase of herds and the right employing of them is the great act of government."<sup>1</sup>

### Epic Treatment

(c) The maintenance of property, and proprietary right, is an advanced question untouched by Manu, but only hinted at in the Buddhist record. Nowhere is the need for the state more urgently felt, than in the sphere of rights and claims. In a sense the state is for these and these are born with the state. Even in the Vedic time a king was needed to assign rightful portions presumably through state actions. The elected king was expected to do it as his duty. In an electing hymn the Atharva Veda says—"Be seated on this summit of the body politic and from there vigorously distribute the natural wealth."<sup>2</sup> In the justice of the state is seen to lie the germ of private and personal property, though it is so theory in the Vedas. The *Mahābhārata* concerns itself with this problem of rights and draws a distinction between "alienable" (ownership) of two kinds—"external" and "internal"—and defines it generally as the "consciousness that it is my property, my

<sup>1</sup> *Civil Service exam.*, pp. 32, 33.

<sup>2</sup> *Atharva Veda*, III. 4, 3. Whitney's Translation is the same in substance. The term "good things" is put for "natural wealth." *Veda H. O. S. VII*, p. 80. *Veda Note 18* in the Appendix.

son, etc."<sup>1</sup> Evidently the one is proprietary consciousness of right and the other is the (bhoga) enjoyment of property acquired. The point here is how could these be possible? Unoubtedly these involve "possession" and "protection" of property for the keeping up of right. But such enjoyment and security of property can be assured only by the state, through the coercive power of "danda" operative in restraint and punishment. It means simply that enjoyment of possessions without security is obvious in the state of nature, but to make it secure by changing it into right is possible only in civil society. Thus title comes into being in and through the state.

Further property, as the most important instrument of the family, which is the political unit, becomes in the Epic the primary product of the state and the chief factor in consolidated society. It is worth noticing that the Mahābhārata everywhere puts property in conjunction with wife and children pointing out thereby the whole apparatus of family life. It regards property to be an indispensable domestic adjunct—"a corollary to the household family".<sup>2</sup>

In anarchy of the non-state condition, "none can have any (sense of) 'mineness' (claim, title) to anything", "none can live in possession of food and things", "none can safely enjoy (bhoga) wealth and wife (family life)".<sup>3</sup> This "sociopathic chaos" is not civil society but the state of nature. Here anybody can have anything—"any two combine to take the property of one and many combine to take it from the first two". "Enjoyment (bhoga) is under envy and at the will of others".<sup>4</sup> Hence as shown by Professor Sarkar "property does not exist in the non-state

<sup>1</sup> *Śrīyogbhāṣya* Parva, 12.

<sup>2</sup> *The Mahābhārata, Phil. Theor. of the State*, p. 382.

<sup>3</sup> *Rajadharma* Parva, 67, 68.

<sup>4</sup> *Ibid.*, pp. 684, 685.



(condition of the logic of the fish, *matsya-nyāya*)'...... Property however is not mere (*bhoga*) enjoyment, possession....Property, (*bhoga*, enjoyment plus secured, ownership), is the differentium between the non-state and the state.<sup>2</sup> Necessarily the *Mahābhārata* has declared that "acquiring wealth and taking to a wife must be done under the shelter of the king".<sup>3</sup> For men can spend their days only by taking the shelter of the all-fruitioning king.<sup>4</sup> This is practically equal to asserting that the highest security and development of the accessories to life are obtained within the state, since it not only preserves but creates right, which comes into being with its own life.

But the Epic also recognises that "there can be no sight to fruits without the sowing of seeds",<sup>5</sup> which is in short labour-produced title. Kautilya has spoken of activity (labour) being the root of all wealth,<sup>6</sup> and it means the due recognition of labour as an element in right allowed by nature before the beginning of law.

## Trust Doctrine

(d) The trust doctrine of property steers clear of the initial difficulty of proprietary rights, and being necessarily in intimate association with religious ideas, concerns itself rather solely with the object of acquiring it. In fact the question of right does not arise at all, when everything is looked upon as the gift of God. It is also a natural intuition consequent on man's experience of the world and of himself. The Hindu conception of the material world agrees with the Christian idea<sup>7</sup> in accepting it as the

<sup>1</sup> *Pol. Theor. & Law*, of the Hindus, p. 204.

<sup>2</sup> *Āraṇyakaśāstra* Parva, 51, p. 755.

<sup>3</sup> *Arthashastra* Parva, 168.

<sup>4</sup> *Gov. I*, 33, *End.* XVII, 1-11.

<sup>5</sup> *Ibid.*, 75, p. 759.

<sup>6</sup> *Artha Śāstra*, p. 44.

beauty of the Maker. The Mahābhārata speaks of the purpose of creation—

"For the enjoyment of all beings this whole world of moving life and inert matter has been created by His (God's) power".<sup>1</sup> Again, "all the wealth, as well as evil, of the world has been created for the good and nothing for the wicked".<sup>2</sup>

But to the question of man's use of the world and all the things found in it there is only one answer throughout the Hindu Śāstras. The individualistic idea has been carefully shut out, so that no selfish end might be read into the object of creation. While the Vedas pray for "riches turned to worthy ends" and "wealth that directs both worlds",<sup>3</sup> the Epic states that "wealth has been created for sacrifices (yajña) and man has been appointed the trustee for it". Again, "God has created wealth for sacrifice and man for protecting wealth; therefore wealth should be spent for sacrifice and not for satisfying desire"<sup>4</sup> And "wealth is the means to dharma (righteousness)".<sup>5</sup> Consequently wealth and righteousness (artha and dharma) are inter-related, the former being under the latter. Their combination is sweet and beautiful, like that of honey and nectar.<sup>6</sup>

The Mahābhārata further enjoins that "wealth above one's need must be given to the poor",<sup>7</sup> and the Bhagavata Purāṇa has the final word on it in pointing out that—

"Living beings have the right to so much as fills the stomach. He who desires more is a thief and deserves punishment".<sup>8</sup>

<sup>1</sup> Īśvarasūtra Purāṇa, 14.

<sup>2</sup> Apaddharmasūtra Purāṇa, 128.

<sup>3</sup> Rig Veda, I, 241.

<sup>4</sup> Bhagavadgītā Purāṇa, 12, 29.

<sup>5</sup> Ibid. 2.

<sup>6</sup> Apaddharmasūtra Purāṇa, 129.

<sup>7</sup> Śrīmadbhāgavat Purāṇa, 10, 8.

<sup>8</sup> Uddāraśāstra jātānām āstānām vācānām hi dharmaḥ.

Arthānām yathāśaktiḥ na śtānām āstānām vācānām (Bhagavata Purāṇa, 7, 14, 8).

Mann has sharply distinguished between "divine wealth" and "devilish wealth" according to their use,<sup>1</sup> which in fact serves for a supplementary commentary on the parable of the talents.<sup>2</sup> It is like Professor Hobhouse's division of "property for use" and "property for power" in his "Property, Its Duties and Rights".<sup>3</sup> In fact Mann's object for earning consists in "supporting relatives, performing religious rites and saving the body from hunger and nudity".<sup>4</sup> Again "a man desiring happiness must not care more than his need, that is for maintaining himself and his family and doing religious works, for contentment is happiness and discontent is sorrow".<sup>5</sup> The rock-foundation on which such ideas rest is the Epic conception that wealth belongs to nobody, being a creation of God—"Many hold the view that wealth does not belong to anyone",<sup>6</sup> and that "wealth is slave to none but man is slave to wealth".<sup>7</sup> It is thus neither common nor personal, but always fraught with an end.

In its deeper implication the trust theory of property stands next door to the Communism of Plato and More. It necessarily reduces to the vanishing point all exclusiveness, like that of the unduly magnified Christian doctrine that "the labourer is worthy of his hire",<sup>8</sup> in favour of an expanding spiritual generalisation of everything acquired in this world by the energy and enterprise of man. The individual element in personal use of things gives place to a higher utility, where others (gods and men implied in sacrificial rites) receive proper, if not greater, consideration. Thus it is said that "the whole world is

<sup>1</sup> Mann XI, 29.

<sup>2</sup> Matt. 25 : 14-30.

<sup>3</sup> Quoted in Hodgkin's *Christ. Revolution* p. 321, and in *Archæologia Society* p. 10.

<sup>4</sup> Mann IV, 3 : of XI, 31.

<sup>5</sup> Mann IV, 30 : XI, 31.

<sup>6</sup> *Ibidem* Parva, 48.

<sup>7</sup> *Epiphaniensis Parva*, 26.

<sup>8</sup> Luke, 10, 7.



In fact Mann's pronouncement stands as a challenge to the world even today. The quantitative solution of socialism means equal distribution and nothing more, while Mann drives at a qualitative change in man's attitude to property. Indeed the whole problem is becoming clearer day by day in the modern time. The observations of Peuty<sup>1</sup> and Tawney<sup>2</sup> demonstrate the real end underlying the possession and distribution of property—in short the proper function of property. Property is moral and healthy when it serves social purpose and discharges personal obligations. Such is Dharma (righteousness) and Yajña (sacrifice) in the Hindu sense, fused together to answer a spiritual end. Mr. Jinarajadasa has explained their relation in the following words—"Wealth is needed for all. But all must be moved by one motive, one will, as they seek happiness. This is found in the idea of yajña, (sacrifice), which Mann gave to his peoples. Under many names this idea reveals itself to men—as dharma, patriotism, art, or social service. But the strength in them all is sacrifice, that is making holy."<sup>3</sup> Indeed it is regarded a great "purifying agent like charity and austerity."<sup>4</sup> The Epic has consequently revealed its

<sup>1</sup> *Towards a Christian Socialism*, p. 180.

<sup>2</sup> *Acquainted Socius*, pp. 82, 84, 1st Edition.

<sup>3</sup> Cf. Tawney's *Yajña Karma*.

<sup>4</sup> *Meeting of the East and the West*, p. 39—Mann has five categories of Yajña and their materialistic ends for every man (Mann *Booklet*, III, 76, 117-118, VI, 94). These constitute the self-discharging activities of human life. These are—Brahma-yajña by teaching pupils, Pitra-yajña by feeding ministers, Deva-yajña by Hindu offering to gods, Bhūta-yajña by food offering and Śūra-yajña by hospitality to guests, and the corresponding negative (śānti-) to discourage petting and indulgence, to be cleared by yajña and pūjā by śāntika and obsequy, by tapas and brahmacharya (śānta-brahmacharya). Mann further adds that wealth should not be earned more than necessary for the above purposes.

<sup>5</sup> *Uta*, IV-83. Also see Barnett's *Hinduism*, p. 32.

inwardness by declaring that "from sacrifice rises immortality,"<sup>1</sup>—from the spirit and act of sacrificial rites.

The practical exposition of *yajña* in the *Bhāgavata Purāṇa* reaches the material as well as the logical climax in the following:—

"Therefore all living beings, like the camel, deer, ass, monkey, rat, snake, bird, fly, etc., should not be stopped, if they enter the house or the field for feeding themselves on corn and other staples. They ought to be looked upon as one's own children. In reality how far can any distinction be drawn between them and such children? A house-holder should not enjoy alone what he has earned in the way of religious merit, earthly wealth, and desirable objects. He ought to give away shares to the dogs, the *chandālas* (low-caste men) and the *śūdras* (out-cast men). Even one's wife should be set to the service of the guests at the expense of personal convenience."<sup>2</sup>

It is but the application of the spirit of *yajña* to the world of living beings through innumerable contacts of active life—in fine the *agri-yajña* of sacred law<sup>3</sup> enjoined on every house-holder.

In the conception of property as *trust*, the Hindu thinkers reached—it must be admitted—a very high degree of economic idealism, which, in depth and extent, showed the most consummate synthesis of the spiritual and the material, transforming the latter at every turn into means to and instruments for the former. If the spirit is really spiritual, the use of property becomes spiritual as well, or to quote Hegel it may be said to be "giving a soul to property." To regard property as *trust* does therefore mean a great spiritual advance and is in fact

<sup>1</sup> *Aṣṭāṅga Sāra*, 71.

<sup>2</sup> *Bhāgavata Purāṇa*, 7, 34, 9, 11.

<sup>3</sup> See *Supra*, *Chāla*, 4, p. 255.

impossible without it. It is the transmutation of individualism and socialism into something, which is both, without destroying either totally and for good. The details of the regulation of private property in individual life, according to Hindu thought, are impossible here, but it is sufficient to add that Hindu religious practice eminently succeed in divesting the individual, through various rites and sacrifices up to the stage of sylvan retirement, of unnecessary, injurious and unachievable accumulation, without any recourse to "death duties" or other forced levies. Yet all was voluntary from the sense of religious duty and the self of man was not snatched away from him.

The proper balance between *Vyashthi* (the individual) and *Samashtā* (the collection) was the aim of the Hindu religious economist; he could not logically sacrifice any one of these for the sake of the other and thus raise an outwardly easy yet impracticable theory. When a light smear is passed on the all too religious strain of Hindu thought in every department of knowledge, its right import is often misunderstood and more often missed altogether. If anything is expected to infuse the correct spirit into man's use of this God-created world, adjusting all economic and social relations into a spiritual whole free from jarring and concussion, it must be religion after all, when it is liberated from its air-tight segregation and is allowed to flow into and become one with politics, economics and sociology. The solution of the property problem seems to lie in this direction. Professor R. K. Mukherjee has observed "that aggressive individualism and keen proprietary instinct under the influence of Roman Jurisprudence, emphasising private property and the sacredness of rights, have given in the opinion of the most thoughtful sociologists and political philosophers a somewhat wrong direction to the development of nations

and states in Europe.<sup>1</sup> The individualistic emphasis obtaining to-day has apparently failed to realise what Hinduism tried to do through the institution of *yajña* of many kinds down to numberless *homas* (small ceremonies). Even in socialism itself the trust idea has a good and important part to play, and may contribute to its very foundation and goal.

The following lines of *Yajña* will show how property was considered an instrument for public good and the realisation of the true end of life. To this great sage the significance of property depends on its use. It is no property which does not come to any use. He says pathily — "The riches of the rich are what they enjoy and endow. Others play with.....the riches of those, who neither enjoy nor endow after their death."<sup>2</sup> The evident conclusion therefore is that property should be properly utilised.

"Why not give away your riches in charity, which you shall have to leave behind after death? Truly realised is the end of his life on whose life depends the livelihood of his friends, relations and *Brahmanas*. Even the beasts live and pamper their own bellies. Of what use is the strength, health and longevity of him, who does not do any act of public good? If you have but a morsel of food, why do you not give half of it to the poor? Verily I do consider a miser to be a man of great renunciation, in as much as he leaves behind him all his hoarded riches after death. A charitable man is the veritable miser living, since he would be benefited by his wealth (spent in charities) in the next world. One day we shall have to quit this life. He does not who has realised the end of his life (through charities). A miser dead is like an ass who carried only

<sup>1</sup> Local Government, p. 24.

<sup>2</sup> *Yajña Siddhānta*, IV p. 325, Dutt's Trans.



other men's ingots on his back. Even space and time will one day die, but the merit of a spontaneous and voluntary gift will never suffer any death."<sup>2</sup>

In respect of the object and use of property Aristotle may be cited to set off Vyāsa worthily and effectively. It illustrates once more how the ancients thought alike in the East and in the West and the fact that the meaning of property consists in the spirit represented by it. Unused "talents" bear no relation to life, nor to exchange values for which coins are made. The motive of property is necessarily the central thought in Vyāsa and Aristotle.<sup>3</sup>

In a remarkably pregnant sentence the Kural<sup>4</sup> has summed up the whole argument on unused wealth in which no purpose is to be found. One who does not know how to use his wealth is rightly called "a dummer unto a great fortune"; "his existence is a burden upon the earth."

### Lankika (Worldly) Aspect

(c) Lankika property, implying its legal nature, is shown from MĹṠkashara, Sarasvatī-Vilasa and other law

<sup>1</sup> Vyāsa Smṛiti, IV. p. 327 ff. Bost's Trans.

<sup>2</sup> Aristotle's Ethics, IV. I. p. 128. (Cf. his Politics, II. 2, p. 91, Giffen's Trans.) "Property falls under the description of things useful which may either be used rightly or wrongly, and he can only use them rightly, who is adorned with the virtues appertaining to them, namely liberality. The use of money consists in expending and receiving it, for the taking and keeping of money belongs to prudence rather than to use. The virtue of liberality, therefore, is more conspicuous in bestowing handsomely than either in receiving what is one due or in refusing what we ought not to accept. This virtue (liberality) is alone the proper object of praise and gratitude.... Men are more inclined than the Ethical, because their virtue is extensively useful reflecting itself as benefits. But the motive from which their actions proceed is what chiefly constitutes their excellence. Liberality like every other virtue must keep the beauty of property in view, selecting its objects and proportioning its action according to these ends which right reason prescribes. Liberality in relation to our wealth, it consists not in the value of our gifts but in the larger and better of the given."

<sup>3</sup> Kural, p. 326

books is Jolly's *Recht and Sitte*.<sup>1</sup> "And juridically speaking, the property taken cognizance of by the state is *Irishka*, i.e. worldly, material or secular" is Professor R. K. Sarkar's explanatory remark based on the old Mīmāṃsā view.<sup>2</sup> As a legal institution it does not touch the theory of property, having no direct bearing on it. The origin of personal property involving the right to use, transfer, bequeath, sell and destroy any property is essentially a legal matter. Its sacredness is preserved by the authority of the state under *danda* (punishment) and through the operation of law. It is the state that gives validity, as shown by Professor Sarkar,<sup>3</sup> to the "seven modes of acquiring property" according to Mann (X. 115) and to its "three titles" according to Vasiṣṭha (XVI. 10) and other legal incidents,<sup>4</sup> all of which fall under the concept of ownership in the modern Science of Law.<sup>5</sup>

The net result of the institution of property in consolidating social and family life is as great and far-reaching, as that of the very establishment of the state itself, though the former is subsidiary to and dependent on the latter.<sup>6</sup> Following the *Mahābhārata*, it has been adroitly pointed out<sup>7</sup> that "two miraculous changes are effected in social life once private property is called into existence". First,

<sup>1</sup> p. 81. (See Jolly's *Law and Custom in Anc. Ind.* (Eng. Tr.)

<sup>2</sup> *Political Theory & Inst. of Hindu* p. 306—The Mīmāṃsā view of property is the extreme *Irishka* idea making it a mere convention. See 'Vijñāneśvara following a suggestion of Prabhākara suggest that *Paśupati* (III. 1. 2-6) was of opinion that property was essentially a matter of popular recognition" and popular recognition is only convention. (Karth's *Karma Mimāṃsā*, p. 181.)

<sup>3</sup> *Id.* p. 303.

<sup>4</sup> Jolly, *Recht & State*, pp. 60-69; See Eng. Trans.

<sup>5</sup> Cf. See K. Gierke's *Science of Law*, pp. 123-125. See Appendix.

<sup>6</sup> Kautilya evidently regards the state to exist for the explicit purpose of protecting property and life, and though he is not quite explicit, his meaning is clear in his law-book, where he speaks of the duty of the ruling caste, the *Kshatriyas*. (I. 10. 15, 3 and 16, pp. 189 and 321, B. R. R. Series Vol. XIV). The passage referred to runs thus—

people can sleep without anxiety "with doors open"<sup>1</sup> and secondly, women decked with ornaments can walk without fear "unattended by men".<sup>2</sup> This is equal to the most comprehensive security to life and to its necessary accessories, which makes life worth living in this world and gives a real meaning to it.

An analysis of the idea of ownership in Hindu Law may prove to be useful to the problem of property. It is given in Note 16 in the Appendix.

"In the *Ekadhyaya* (the *placoth* month — the privilege) of strong weapons and protecting the treasure and life of everybody for the growth of (good) government." Cf. XIII-4.

<sup>1</sup> Hence the assumption that government exists solely for the protection of property is not one to be deliberately adhered to — that protection being required for persons as well as property. The aim of government are as comprehensive as those of social justice. (Para of *Pāli* Theory 45-6.)

<sup>1</sup> *Śāstra* *Pras.*, 63, 25.

<sup>2</sup> *Ibid.* 63, 26.

## PRINCIPLES OF TAXATION

## Need and Object

Taxation is a necessity of the state. This is illustrated in (a) the Vedic prayer for "rendering the people *ball-hjit* (tax-bearing)",<sup>1</sup> (b) the Epic aphorism that "the state is maintained by finance",<sup>2</sup> (c) Kauṭilya's observation that "finance is the basis of all activity (of the state)",<sup>3</sup> Śūkra's statement that "funds should be collected by the king to maintain the commonwealth",<sup>4</sup> Kamandaka's saying that "treasury is the main stay of the government",<sup>5</sup> and Somadeva Śaṭi's remark that "the treasury is the king" (the state in reality).<sup>6</sup> From the earliest time down to the age of Śūkra the life of the state was seen, as usual, bound up with taxation and all undertakings of government depended on it.<sup>7</sup> The close connection between taxation and public administration is almost self-evident in all works on politics, as one of the primary and essential conditions of corporate life.

The effort to think out the basis for such taxation, in the shape of governmental demand, naturally led to the formulation of theories about it, which were ultimately

<sup>1</sup> Rig Veda, X, 173; Vedic Index, II, 322.

<sup>2</sup> Śūtra Parā, 132.

<sup>3</sup> Artha Śāstra, pp. 72, 254.

<sup>4</sup> Śūtra 206, p. 126.

<sup>5</sup> Nīti Śāstra, p. 43.

<sup>6</sup> Nītiśikhaṅgadhā 30, p. 245.

<sup>7</sup> Cf. Mill, *Prin. of Pol. Econ.* p. 482. and Foxwell, *Pol. Econ.* p. 126.

In the economic language of Foxwell "the inappreciable functions of government cannot be performed without incurring considerable expense. To meet this expense taxation is necessary". Similarly Mill speaks of resources as "the condition of the existence of governments".

grounded on the equitable principle of exchange. In fact there is no theory, in the history of Hindu taxation, which is not in some way or other a modification of this fundamental principle. Generally speaking, from the stage of voluntary subscription<sup>1</sup> to that of compulsory contributions,<sup>2</sup>—even though both are for common interest—taxation changes its character with the nature of the constitution of the state, and according to the view taken of kingship. The nature of monarchy, characterised taxation in ancient times. The principles on which taxation turned in Hindu theory are (a) simple contribution (b) governmental contract and (c) remunerative wages. Looked at from the point of view of the people it is mainly contributory, while from the side of the state, represented by the king, it is mainly remunerative for service done. Such remarkably modern tone does credit to the economists and the law-givers who had to tackle the ancient financial problems.

### Nature of Taxation

Early in the period of the Law Books (*śāstras*) taxes were considered simply as contribution by the people without any scientific specification of their nature.<sup>3</sup> Much advance was of course made on the Vedic conception of rather loose voluntary contribution,<sup>4</sup> if such was really the condition of the age. The Code of Gautama, one of the earliest law-givers, may be taken as the type in respect of more systematised and, therefore, primitively scientific

<sup>1</sup> *Vedic Index*, II, p. 218. Cf. *YB*, *Prin. of Pub. Econ.*, p. 225.

<sup>2</sup> *Encyclop.*, *Pub. Adminn.* in *Ann. Ind.*, p. 122.

<sup>3</sup> See *Encyc. Hist. of Ind.* I, p. 267. Beneficence is an exception. See later, Sec. on Remunerations by Tax.

<sup>4</sup> *Encyclop. Administrative Econ.*, p. 108. See too on *Kinds of Taxes*.

taxation. It is probable that other legislators followed with him some common custom determining taxation.

In the 10th book of his work Gautama simply asserts that "a subject is bound to pay revenue to his king".<sup>1</sup> This is plainly making it the duty of the people according to the orthodox procedure of the law-books. Later on without attempting to explain he supplements his statement by merely adding—

"Inasmuch as a king ensures the safe possession of all these things (of the cultivators and traders)".<sup>2</sup>

As to the king's share his ruling is—

"The surplus of the revenue after defraying all the charges of good and efficient government should be appropriated by the king for his personal use".<sup>3</sup>

Yājñalkya, a later legislator of considerable importance, gives on the same method the following rule—

"Every year he (the king) shall collect from his subjects as revenue...The king shall appoint trustworthy agents in the collection of taxes".<sup>4</sup>

He does not try to explain the motive of his rule, as is done by Gautama, but merely puts it down as a duty of the king. In fact the spirit of the law-books do not so much aim at explanation, as at guidance for the king and the people, in regard to things to be performed duly. They do not go into theories; their work is supposed to consist in supplying the political maxims for practical purposes.

(ii) The contract basis of tradition is seen at its best in the *Mahābhārata* in the definite understanding between the king and the people, when both unite to erect the fabric of the state. Reference to it has already been made

<sup>1</sup> *Upaniṣads* X, p. 613, *Bull's Trans.* See S. B. E. II, p. 330, also *Upaniṣads* I. This does not rise to the remunerative idea, though it appears to be so on the surface.

<sup>2</sup> *Ibid.* X, p. 613.

<sup>3</sup> *Ibid.* X, p. 613.

<sup>4</sup> *Yājñalkya Smṛti*, vi, p. 330, *Bull's Trans.*

in Chapter IV, on Popular Political Authority. While it takes for granted the contributory element it adds to a proper and lasting settlement with the character and authority of law. It is clearly read between the lines, if it is missed in the body of the contract itself. Its value lies not only in the fact that it freed the principles of taxation from the dogma of sacred law, but also in affording a good deal of positive dignity to the status of the people. It gave rise to the consciousness of making concrete and purposive contributions for the sake of a common good. Thus it is found in the Buddhist account and in the Mahābhārata, that people for the first time speak of themselves as a corporate body by the use of the word, "we" in fixing the terms of the contract. It marks a high stage of political development and includes the realisation of the state as a common wealth. Tax-giving likewise passes from the passive to the active stage, where it is a self-imposed duty with an object. This very fact goes to connect it with the most advanced and more abstract principle of consent as seen in 'Extra Taxation' below.

In the Buddhist as well as in the Epic contract, the main condition of taxation is the protection of the people, as in the Canonised law. The Buddhist tradition makes taxes general payments mainly for judicial work of adjusting and dealing out rewards and punishments, without any reference to other needs of the state. The wording of this contract is reproduced again for convenience of comparison and contrast—

"Henceforth thou shalt punish those of us who deserve punishment and thou shalt recompense those of us who deserve recompense, and we shall give thee a portion of the produce of our fields and of the fruits we gather." <sup>1</sup>

<sup>1</sup> Radhak's Buddha, p. 7. See Ch. I.

The *Mahābhārata* on the other hand is elaborate in its treatment of *rajadharma* being out of context. The nature of *rajadharma* is also well illustrated in it. The state is seen to be properly developed with its many necessities and its want for providing of all these. The function of *rajadharma* therefore becomes clear and definite from many points of view. The terms on both sides are stated thus—

(a) The people's invitation to Manu the first king—“Lord, you need not fear, sin will not touch you. We shall give you for the increase of treasury one-fiftieth portion of gold and animals and one-tenth portion of paddy and beautiful maidens (as fine?) in case of quarrels, dice-gambling and custom duty (on trade). Those who can use weapons will follow you (as your army). The fourth part of our religious merits will be yours. It is also obligatory to supply to the king conveyance, umbrella, dress, ornaments, food, drink, house etc. (and other necessities). The king should be respected by people desiring welfare.”

(b) Expected duties on Manu's part—“Now you maintain us like Indra the king of the gods and search the enemies like the Sun, being out for victory. Then “Manu punished crimes” and “put people to their respective duties.” On receipt of his dues the king is expected “to speak sweetly to all” and “to become grateful and loving.”<sup>1</sup>

§ It ought to be noted as well that when Prithu, the first constitutional king according to the orthodox politicians of the *Mahābhārata*, was elected to the throne of his father Vena, “the Earth in her (own) divine shape came to him with riches and precious jewels” as due tribute to an accepted ruler.”

<sup>1</sup> *Sansk. Purāṇa*, 37.

<sup>2</sup> *Ibid.*, 38.



The account of the Bible shows how taxation is the foundation of the treasury, the army and trade, as well as religious institutions, and royal duties grow from the conditions on which tax is paid. But the terms are as yet of the nature of a transaction and the balance is equal for both the parties,—the king and the people. Professor B. K. Sarker has characterised it as "the cash nexus binding the king and the people."<sup>1</sup>

(c) The next stage of taxation is the distinct remunerative idea for service demanded and done, and it is reached, as the very climax, by gathering up all the progress made in the preceding speculations of previous ages. The corner-stone of popular liberty and power is indeed laid on it, affecting every shade of political thought. If "no representation, no taxation" is one of the greatest political maxims of the West, "tax—the royal wage" is equally as great and carries with it similar far-reaching implications. These have been to a great extent seen in the revolutionary doctrines rising out of the bad handling of the principles of taxation.<sup>2</sup>

By the time the teaching of the wage theory was solidified, kingship became the firmly established form of government. In reality the theory itself specifically applies to monarchy and puts it absolutely under popular control. The contract idea receives through it a new meaning and strength, though it was probably the original ground-work for such a super-structure. There could have been a wage theory, as in *Buddhityana* noted below, straight from the law books, but never with the same import as it acquired after the contract doctrine. The royal position in receiving tax changes from that of equality with the people in the contract, to that of servitude to the people in the wage theory.

<sup>1</sup> *Pol. Theo. & Inst. of India*, p. 153

<sup>2</sup> *Gupta, Doctrine of Resistance and Revolution*

The passage to the wage conception from that of governmental contract is easy and logical. It means only a step forward and is an evident growth increasing further popular control. It is the sign of the advance made in politics in general—theoretical and practical. It is the popular side emphasised to the utmost, while that of the law is reduced beyond recognition. But it must be admitted that in its assimilating the achievements of the other two theories, it has undergone an allotropic modification. Nothing can exactly be posited as to the time of its birth. Apparently it looks like a corollary deducible from the exchange and contract ideas and nothing beyond an analytic survey of the basic thought can be attempted here. The historical genesis of this theory, goes back to the time of Baudhāyana. It is to be seen how Baudhāyana is traced to be the first writer to lay it down and since then it became current in political thought.

Among the legislators Baudhāyana has applied this theory direct to taxation, presumably from the prevailing ideas of constitution. He has merely referred to the exchange principle, and contract was then out of the question. It is repeated almost in the same form and substance in later political literature down to Śakra. This has already been illustrated from the stand-point of kingship, and hence a succinct resume is given below to preserve the connection of thought.

1. Baudhāyana announced—

"Let the king protect (his) subjects, receiving as his pay a sixth part of their incomes and spiritual merit"<sup>1</sup>

2. The law-giver Nārada has put it as—

"Both the customary receipts of a king and what is called the sixth of the produce of the soil from the

<sup>1</sup> Baudhāyana S. D. II. Sm., Vol. XIV, p. 100.

royal revenue, the reward for the protection of his subjects".<sup>1</sup>

3. The *Mahābhārata* has also this stratum of thought incorporated with others of separate type. It may be simply a subsequent addition—

"Through the one sixth *śati* tax, import and export duties, fines and forfeitures collected from offenders, gathered in accordance with the *śikṣa*—expect revenue as your wages (*śreṇas*)".<sup>2</sup>

4. In *Kautilya* there seems to be a mixture of all the ideas on taxation. While he accepts the contract basis he is not quite emphatic on the wage theory. The following extract shows his position—

"People .....allotted one sixth of the grains grown and one tenth of merchandise as sovereign dues. Paid by this payment kings took upon themselves the responsibility of maintaining the safety and security of their subjects".<sup>3</sup>

5. Śukra's synthetic statement lays the greatest stress and raises the wage idea to its highest in his own work—

"God has made the king, though master in form, the servant of the people, getting his wages in taxes for the purpose of continuous protection and growth".<sup>4</sup>

Mr. Jaysawal has called it the "divine theory of taxation" on the ground that "the broker to that contract was the Creator himself".<sup>5</sup> The fact is that Śukra has tried to combine the orthodoxy of the canonical writers with the radicalism of the secular politicians. His object evidently is to secure the maximum of authority and freedom at

<sup>1</sup> *Mahābhārata*, ch. 6 G. R. Sharma, Vol. XXIII, p. 224. See *Hindu Polity*, p. 181 ff.

<sup>2</sup> *Śānti Parva*, 76 Bengal Text, p. 774.

<sup>3</sup> *Artha Śāstra*, p. 56 or p. 55-56.

<sup>4</sup> *Sukra Nisā*, I. 35. *Jaysawal's* *Verdict*. See *Hindu Polity* II, p. 343.

<sup>5</sup> *Hindu Polity*, II p. 182.

one and the same time. This is one of the great merits of Śaṅkara as a very sane political thinker, the Hindu Aristotle so to speak. The influence of Maun on the above conception has already been alluded to in Chapter II on "The Nature of Kingship". The wage theory has its climax in this remarkable and equally significant synthesis.

### Canons of Taxation

In about the long period which roughly covers Kautilya, Maun and the Mahābhārata, a number of general rules or canons were accepted substantially and formed the basis of taxation. They represent broadly the same principles as the famous canons of Adam Smith in his *Wealth of Nations*,<sup>1</sup> which are followed to-day by all economists with verbal differences here and there. The subject-matter closely corresponds in both sets of canons. Considering the widely different economic circumstances under which they were produced, it is remarkable that the Eastern and Western canons agree so much as to matter and method. To all intents and purposes, they were only rules for the guidance of the state, ensuring justice between the payer and payee. When taken collectively the Eastern maxims of taxation furnish that sound economic exposition, which is neither far, nor different, from what holds good in the modern world. They yield similar results, if they are analysed, and point to the same objective in their operation. Mr. Jayarval has given a few of them with suggestive touches of the underlying economic policy. The guiding ideal is indicated by him in the words of the Epic to be—"It is not the heavily taxed realm which executes great deeds, but the moderately taxed one, whose ruler not sacrificing

<sup>1</sup> Cf. V. Chap. II.

the power of defence, manages administration economically".<sup>1</sup> In short both proportionate and progressive taxation produced this sort of state revenue with due care and requisite safety.<sup>2</sup>

### I Canon—

"A subject is bound to pay revenue to his king, in as much as the king ensures the safe protection of all these things (of the cultivators and traders)".<sup>3</sup> This is Cornuau's dictum, which is supported by Manu in his saying that "tax should be levied (by the king) having protected the people with weapons".<sup>4</sup> The Mahābhārata follows it up and allows taxation on the condition of protection<sup>5</sup> and enjoins heavy taxation on the rich,<sup>6</sup> who are expected to give more for the protecting work of the state,<sup>7</sup> that is in proportion to their income. "Prosperous people should be gradually taxed in increased proportion".<sup>8</sup> The converse of this canon is added below from Parāśara's law-book.

### II Canon—

The Mahābhārata and the Manu Smṛiti lay down the positive injunctions that tax must be levied according to Śāstra or law. Manu has it that "the king should take tax every year in accordance with Śāstra",<sup>9</sup> while the Epic declares "taxing according to reason....Is a

<sup>1</sup> Mahābhārata, 41, 32, quoted in Jayaswal's *Hindu Polity*, p. 163.

<sup>2</sup> Cf. Dr. Ghoshal's *Hindu Soc. System*, p. 54.

<sup>3</sup> Cornuau, X, p. 273. Dutt's *Treaty Soc. S. B. E. II*, p. 380. Eckler's version is not so reliable here. Cf. Manu, VII, 185.

<sup>4</sup> Manu Smṛiti, IX, 173.

<sup>5</sup> *Arthashastra Parva*, 106.

<sup>6</sup> *Ibid.* 179.

<sup>7</sup> *Bhīṣma-parva Parva*, 66.

<sup>8</sup> *Ibid.* Cf. Manu Smṛiti's I Canon—"Every subject ought to contribute to the revenue & tax proportionate to the income which he enjoys under the protection of the state". (*Farwesth. Pol. Econ.* p. 137.)

<sup>9</sup> Manu Smṛiti, VII, 86.

means to preservation".<sup>1</sup> Thus "the king ought to receive taxes from the people following *dharma*".<sup>2</sup> The *Nhāgavata* Purāṇa makes it "taxation according to rule".<sup>3</sup> The words "*dharma*" (law) and "reason" imply the well-known fixed rate and other incidents and exclude uncertainty and arbitrariness.<sup>4</sup>

### III. Cause—

"In proper time, place, form and strength (quantity) taxes should be extracted by the righteous king".<sup>5</sup> The highly condensed form of this maxim is worthy of note.<sup>6</sup> Further it is pointed out by the *Mahābhārata* that "taking in a lump-sum at a time is equal to oppressing people,"<sup>7</sup> and "unfairly and improper" taxes are ruled out.<sup>8</sup>

### IV. Cause—

"Tax should be levied after consideration of the income and expenditure of the people".<sup>9</sup> "Nothing must be done to cause exhaustion by taxation".<sup>10</sup> In other words this is equal to what *Māṇu* says in the way of caution—"one's own root should not be destroyed by giving up taxes and duties nor that of others (subjects) by excessive taxation."<sup>11</sup> The ancient Hindu Economists also saw to

<sup>1</sup> *Bhāṣya-sūtras* Purāṇa, 28.

<sup>2</sup> *Ibid.*, 71.

<sup>3</sup> *Nhāgavata Purāṇa*, IV, 4.

<sup>4</sup> Cf. *Adhya Śaṅkha's* II Cause—"Taxes ought to be certain, not arbitrary. The time of payment, the quantity to be paid, ought to be clear and plain to the contributor and every other person". (*Pravartā, Pol. Econ.* p. 127.)

<sup>5</sup> *Śāṅkha Purāṇa*, 28, 4, p. 212. *Bhāṣya* *Śaṅkha*; adapted from *Hindu Polity*, p. 148.

<sup>6</sup> Cf. *Adhya Śaṅkha's* III Cause—"Every tax ought to be levied in the time and in the manner in which it is most convenient for the contributor to pay". (*Pravartā, Pol. Econ.* p. 127.)

<sup>7</sup> *Bhāṣya-sūtras* Purāṇa, 28.

<sup>8</sup> *Ibid.*—"Improper" means "the unworthy objects" constituting a critical estimate of taxation in the great *Epā*.

<sup>9</sup> *Ibid.*, 120.

<sup>10</sup> *Ibid.*, 27.

<sup>11</sup> *Māṇu Śaṅkha*, VII, 127; Cf. *Adhya Śaṅkha*, p. 73. Cf. *Adhya Śaṅkha's* IV Cause—"Every tax should have considered as both to take out and

the prosperity of the people and the fact that in it lay the sound policy of taxation. "Just as the calf can bear burdens strengthened by milk.....so the people when they are prosperous (unexploited).<sup>1</sup> "Milk the cow but do not bore the adders"<sup>2</sup> says the Epic. Parikṣit<sup>3</sup> should be read together with this canon: his rule is given below.

Two more minor canons follow from the above. These are mentioned here, although Adam Smith has nothing like them. They are minor in the sense that they may be worked out from the principles already noticed.

#### V Canon—

"The king should imperceptibly realise tax from the people without harming them (in the least)."<sup>4</sup> In his "Hindu Policy" Mr. Jayawar has explained it to signify that "taxation should be such that it may not be felt by the subject".<sup>5</sup> The Epic has used in this connection the metaphors of the works by the bee, the goat, the leech and of milking, and all for the purpose of showing that the process must not be felt<sup>6</sup> to be troublesome. The point to be noticed is that no pain nor harm should be caused to the people by sudden demands.

#### VI Canon—

"The king should tax little by little like bee collecting honey out of the pores of the people as little as possible even and alone what it brings into the public treasury of the state. (Purāṇa, Pol. Econ. p. 107.)

<sup>1</sup> Bhagavadgītā Parva, 37.

<sup>2</sup> Śānti Parva, 35, 4, quoted in Hindu Policy, p. 167.

<sup>3</sup> Parikṣit, 1, 89 (Dutt's Trans. p. 544) gives the partial contents of the first and the fourth canons—"As a flower-man strings a garland of flowers by cutting one from each flower plant in the garden, so a king (shall) raise his revenue by imposing a light tax on his undisturbed subjects without inflicting hardship on any. He should not be like a charcoal-man who takes down all trees in a garden and reduces them to dust". This canon shows the law of the distribution of tax on all with the implication of the proportion of demand.

<sup>4</sup> Bhagavadgītā Parva, 36.

<sup>5</sup> Hindu Policy, p. 166.

<sup>6</sup> Bhagavadgītā Parva, 36.

honey from flowers.<sup>1</sup> At another place the condition laid down for such an act is the increasing prosperity of the realm.<sup>2</sup> It evidently aims at the rising of the rates of taxation. Manu adds to it the phrase "without harassing the capital money of the subjects" and is followed by Śakra.<sup>3</sup>

### Industrial Taxation

From the fourth canon is deducible the methods of industrial taxation. Such methods are but special applications of the fourth canon as it operates on industrial products. The key-note may be expressed in the language of Kauṭilya—"Just as fruits are gathered from a garden, as often as they become ripe, so revenue should be collected as often as it becomes ripe. Collection of revenue or of fruits, when unripe, shall never be carried on lest their source may be injured causing immense trouble."<sup>4</sup> Kānandakya and Śakra have endorsed it by saying that taxes should be raised like "the gardener who collects flowers and fruits having duly nourished the trees with care",<sup>5</sup> "a peasant both tends and sprinkles water on his plants and cuts flowers from them."<sup>6</sup> This is the principle of replenishment or recuperation" according to Professor B. K. Sarkar.<sup>7</sup>

In the *Mahābhārata* and the *Matsya Śaśtra* is found special consideration of the rules for the levying of tax on articles of trade and industrial and art products. They are given below—

<sup>1</sup> Ibid.

<sup>2</sup> *Manu Smṛiti*, p. 185.

<sup>3</sup> *Manu Smṛiti* VII. 235; Śakra III, p. 51.

<sup>4</sup> *Vijñāna Śāstra*, p. 207.

<sup>5</sup> Śakra III, p. 51. The exact antithesis of the gardener is the charcoal seller who obtains everything after burning wood. Śakra's illustration is for checking heavy taxation (Śakra III, p. 147). Cf. *Prājñapti Parva*, 53.

<sup>6</sup> *Mātṛ Śāstra*, p. 136.

<sup>7</sup> *Pol. Theor. & Inst.* of Hindun, p. 186.



## 1. As to trade—

(a) "It is the duty of the king to fix rules (i. e. rates) of taxation on the traders having considered their sale and purchase, increase and (expenses on) the way, food and clothing."<sup>1</sup>

(b) "The king should take taxes from the merchants on their articles after proper enquiry as to the prices of sale and purchase of commodities, the distance from which they are brought, the expenses on the way for carriage and for safe-guarding them from thieves and robbers and calculation of profit on total expenses."<sup>2</sup>

## 2. As to industry—

(a) "Rates of taxes ought to be made, so that the fruit (profit) may be enjoyed both by the king and the worker....but never without properly examining the work as well as its fruits. Neither profit nor execution of work is possible without a cause (i. e. incentive). Covetous extraction is undesirable as would at a time destroy trade, agriculture and the kingdom."<sup>3</sup>

(b) "On consideration in every possible way the king should fix the (rate) of tax, so that both sides, viz., he and the seller (or producer) may get real fruits (profits of their respective works)."<sup>4</sup>

## 3. As to art products—

"The production, gifts, advances (to workers) and development of those, who live by artistic work should be specially noticed in fixing the rules of tax on them." (This rule has been separated from the above for showing its importance).<sup>5</sup> It is to be noted in this connection

<sup>1</sup> *Rajataranginī* Para, 82.

<sup>2</sup> *Harivamśa*, VII, 181.

<sup>3</sup> *Harivamśa*, VII, 183.

<sup>4</sup> *Rajataranginī* Para, 82.

<sup>5</sup> *Rajataranginī* Para, 82.



## Excise Duty

Kautilya has a compensating charge for liquor of private and foreign manufacture. Mr. Jayaswal says—“Foreign favourites and private manufactures in wines and liquors were taxed on the principle of compensation with reference to state manufactures.”<sup>1</sup> The countervailing duty in such cases kept the prices equal. The Artha Śāstra has laid down that—

“Those who deal with liquor, other than that of the king, shall pay five per cent as toll” and the superintendent.....“shall fix the amount of compensation (vaidikarupa) due to the king (from local and foreign merchants for entailing loss on the king’s liquor traffic).”<sup>2</sup>

## Land Revenue

Dr. Ghosal has very carefully gone into the principles of Land Revenue and has analysed the whole system. The items occurring below show the principal types of charges in the Arthashastra—(1) mīla—capital out-lay, (2) shāga—king’s share, (3) vyatī—compensation for, (4) parigra—door-bolt charge, (5) klīpta—fixed charge, (6) rupika—separate tax, (7) atyaya—money fine, (8) satā—produce of farm, (9) bali—king’s receipts from begging, (10) kara—periodical tax, (11) pipḍakara—lamp assessment (12) shaḍ bhāga—the sixth share, (13) anubhaktā—provision for array (14) utsānga—irregular charges, (15) pāriva—surplus of due tax, (16) pārībhūtika—presents, (17) aupāyanika—earnings from presents, (18) kaushthāyaka—earnings from royal store house.<sup>3</sup>

<sup>1</sup> Indian Polity, p. 165.

<sup>2</sup> Artha Śāstra, p. 134.

<sup>3</sup> Hindu Rev. System, p. 31-53.

## Extra Taxation

This involves great constitutional issues, signifying consent on the part of the people, in consideration of extraordinary circumstances, such as war, danger, famine and disease. It is intimately connected with the doctrine of resistance and revolution in case of illegal taxation. That the people were consulted and often had to be coaxed for raising revenue for special purposes is quite clear from the ancient political writings, although the exact limits are not available from them. Generally it is said that "he (the king), who collects money according to his own wishes without asking about the law from others, can not prosper for long."<sup>1</sup> This important principle, on which such taxation rested, is the will of the people towards the realisation of an object of common interest and welfare and it stands out most conspicuously in the case of extra taxation.

While the *Āyik* offers the general advice of "taxing pleasantly and peacefully,"<sup>2</sup> it allows extra tax in times of danger and difficulty. "In times of danger the king can (for the purpose of protecting the people) tax unsanctioned things (items) without enraging the people."<sup>3</sup> "Raising money by force is not forbidden in times of danger."<sup>4</sup> *Manu* allows special rates of taxation to meet such untoward necessity. "In danger one-eighth and in grave danger one-fourth" are his standards.<sup>5</sup> *Kautilya* enjoins "revenue by demand in financial trouble" at the rates of one-third and one-fourth of gains.<sup>6</sup> He also advises public "subscriptions" as another means.<sup>7</sup> *Śakra* follows

<sup>1</sup> *Rājadharmasūtra* Para, 23

<sup>2</sup> *Ibid.*, 135

<sup>3</sup> *Ibid.*

<sup>4</sup> *Artha Śāstra*, pp. 871, 872.

<sup>5</sup> *Arthashastra* Para, 135

<sup>6</sup> *Manu Smṛiti*, II, 139

<sup>7</sup> *Ibid.*, p. 122.

Manu and remarks roundly that 'the ruler should realise his share of revenue according to Prajāpati's system, but in times of danger and difficulty according to Manu's system. When preparing to destroy the enemy he should receive from people special grants of duties, fines etc.'<sup>1</sup> He adds that the amount so gained should be returned in the proper time.

But this does not mean that the people had no voice over such extra taxation or that it was but a one-sided affair. In fact the king had to approach them for such a purpose, showing such special items of the budget as "building walls, paying officers and workers and other charges."<sup>2</sup> Even in case of religious needs the money was to be the willing gift of the people. "Sacrificial rites should be undertaken by the king with the money lovingly given by prosperous subjects without being oppressed."<sup>3</sup> Specimen royal speeches illustrate how far and in what way the king had to appeal to the people for money grants, whether against danger or for religious needs.

The *Mahābhārata* gives the following—

"The king desiring money demand should appeal to the people showing the danger (ahead)—'See, in the country there is fear from the enemy, but it will shortly disappear like the flowering bamboo. The enemies, having combined with the robbers, have for their own destruction aimed at attacking my kingdom. Now I pray for money from you gentlemen, since this serious danger has appeared. When the present difficulty will be got rid of, I shall return your money to you. If the enemy forcibly take your money you will never get it back and your family and children will be destroyed in case of their attack. Who will then enjoy your wealth ?

<sup>1</sup> *Śāstra Nāṭa*, p. 37 and 123.

<sup>2</sup> *Śāpīkharāśāstrīya Parva*, 37.

<sup>3</sup> *Arśhaśāstra Parva*, 62.

You are like my children and I become highly pleased to see your prosperity. I am, therefore, appealing to you for funds at this time of distress. Do you put a stop to this trouble to the state by subscribing funds according to your might. Money should not be considered dear at times of danger."<sup>1</sup>

The *Digba Nṛsiya* supplies the king's appeal for a sacrifice. Mr. Jayaswal has given this form of demand—

"I intend to offer a great sacrifice. Let the gentlemen (venerable ones, according to *Rhys Davids*) give their sanction to what will be to me for weal and welfare."<sup>2</sup>

If the *Paura-Janapada* bodies give their sanction, the king was to prepare and perform the sacrifice and the country had to pay a tax for it.<sup>3</sup>

Śakra also furnishes an example of the king's procedure against danger in approaching the people for money-grants. It seems to be in imitation of the *Epic* both in form and matter and does not yield anything new. Its interest, however, is in the fact that the idea is preserved even down to the late age of Śakra. He advises that "in times of danger the king should call on the wisemen, the preceptors, brothers, friends, servants, relatives and councillors, and humbly consult their wishes in the proper manner."<sup>4</sup> The royal speech is to be like the following—

"I shall do away with the danger if you give me your counsels. You are my friends and not servants. I have no other sources of help besides you all.....I shall remember the benefit rendered by you and pay back the remainder after getting rid of the trouble."<sup>5</sup>

<sup>1</sup> *Rājataranginīśāstra*, Purāṇa, 87.

<sup>2</sup> *Digba Nṛsiya*, *Rājataranginī Śāstra*; vol. II, *Harala Paddh*, II, p. 98.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Śakra Nṛsi*, p. 280.

<sup>5</sup> *Ibid.*, p. 285.

The reference here is to the raising of subscriptions and loans or National Debt. The noticeable difference between the *Kpiś* and *Śakra* is that the appeal in the former is to the people in general and is more detailed and stressed, while in the latter it is merely like a gist and is addressed to those, who are closely attached to the king as his immediate associates and relatives. It indicates partial decay of the democratic attitude and a tendency to centralisation.

### Kinds and Rates of Taxes

It is seen from the last section that there were several sources of income, which in their turn characterised the taxes paid to the state. They rose from the uses of articles by the tax-payers or the people in general. That the people were the ultimate source of revenue was a fact recognised probably long before varieties of taxes came into vogue. As early as the immediate post-Vedic period, it was realised that the burden of taxation fell quite naturally on the common masses. Hence the *Śatapatha Brāhmaṇa* declared that both "Brahma (priesthood) and Kṣātra (ruling power—nobility) depend upon the people." In the *Saṁhitā* period "the Vaiśya is described as tributary to another."<sup>1</sup> The *Mahābhārata* and the *Artha Śāstra* of Kaṭilya entertain the same view, the former holding that "the king is always dependent on others," that is the subjects,<sup>2</sup> and the latter stating expressly that "Finance and army depend upon the people."<sup>3</sup> The economic existence of the state is analysed backwards and is shown to be closely related to the business side of the life of the people, including, as far as it could, trade and commerce as they were in those ancient days. It is to be remembered under this context that the "measure and price

<sup>1</sup> Sat. Br. XI. 2, 7, 14.

<sup>2</sup> *Mahābhārata Parva*, 321.

<sup>3</sup> *Class. Hist. of India*, p. 128.

<sup>4</sup> *Artha Śāstra*, p. 300.

of property should be subject to taxes" and not property itself of the people according to the rule of Yashodha.<sup>1</sup>

In the Vedic period *dan*, or tribute, is most prominently mentioned.<sup>2</sup> Principal Bhat has pointed out that it meant religious offering as well, e. g. tribute to Indra, the king of the gods. The word *dan* has frequently been used to signify offerings to gods, but *dan-hrit* (tax-bearing) could not but have meant tribute to the king.<sup>3</sup>—"a contribution paid by the people to the king"<sup>4</sup> according to Dr. Ghosal. Nothing is mentioned in the Rig Veda as to the rate of this tax. Perhaps the time was not quite mature. Zimmer has therefore remarked that "fixed taxes the people did not pay the king: they brought to him voluntary presents". He compared this with the old Germanic conditions mentioned in Tacitus, *Germania* 18.<sup>5</sup> But a passage in the Atharva Veda gives a clue, or at least a gesture, which can be utilised advantageously for explaining the difficulty. The Atharva Veda has it as—

"When yonder kings, who sit beside Yama, divide

Among themselves the sixteenth part of hopes fulfilled."<sup>6</sup>

Griffith says that it is for "immunity from taxation in the next world"<sup>7</sup> by means of sacrificial rites. It is certainly a reflection of the condition in this sub-lunar world and beautifully suggests by the phrase "hopes fulfilled" the precarious harvesting prospects in an agricultural country like India. The same Veda explains further—

"The wealth which husbandmen sometime, digging  
like men  
Who found their food, with knowledge, buried (as seed-  
corn),

<sup>1</sup> *Visvaja Samhita*, XVII, p. 303, Bhat's Trans.

<sup>2</sup> *Rig Veda*, V 1-10, VII 303, 2.

<sup>3</sup> *Jain Arjan Pality*, p. 79.

<sup>4</sup> *Hindu Res. System*, p. 6.

<sup>5</sup> *Alfred-Charles Weber*, p. 105. See p. 221.

<sup>6</sup> *Atharva Veda*, III, 303 V. 1, p. 134. Griffith's Trans. Also Cf. the three "stanzas" or *stanzas* well-known in Buddhist Literature.

<sup>7</sup> *Ibid.*



This to the king, Vivasvat's son (Yama), I offer,  
Sweet be our food and fit for sacrificing!"<sup>1</sup>

Dr. Ghosal has cited Hymn III, 29 of the Atharvaveda to show the one-sixteenth rate of taxation in the Vedic time.<sup>2</sup>

As regards the Buddhist time, Fick has likewise observed that "So far as I have seen, the *Jitakas* contain no fixed rule concerning the nature of these taxes, nor concerning the amount of the king's share."<sup>3</sup> But it is to be remembered that the Buddhist tradition has parallel to itself the dictates of the law-books. The Voltairic tenant of the Buddhist monk, Aryadeva, at an unknown Frederick is a remarkable example, proving the dependence of the king on the sixth portion of the produce of the people.<sup>4</sup> Again, although the *Jitakas* have no reference to such a rule, the *Mahāvastu* mentions this time-honoured and classical proportion from the very foundation of the state.<sup>5</sup> All this may be due more or less to Hindu influence, but nothing but time seems to account for the increased rate from the Vedic to the Buddhist time. The Cambridge History of India, following V. A. Smith, indicates one sixth to one sixteenth rate in the Buddhist time.<sup>6</sup> The Greek account based on Megasthenes shows one fourth of produce in addition to rent and ten percent charges on sales.<sup>7</sup>

In the period of the law-books exhaustive details are provided by Gautama, Manu and Vishnu, including both direct and indirect taxes. Gautama gives the following scale —

<sup>1</sup> *Rig V.* VI, 121, Vol. I, p. 309.

<sup>2</sup> *Hindu Soc. System*, 1926, p. 5. See the writer's article on Taxation in *Tellico Educational Quarterly*, Calcutta, 1926.

<sup>3</sup> Fick's *Social Organization* etc. p. 114, Dr. Maier's Trans.

<sup>4</sup> *Supra*, Vol. 1, ch. II, Ch. IV; *Chandabodhi*, p. 421.

<sup>5</sup> *Mahāvastu*, *Sanser's Ed.* Vol. I, pp. 327-328.

<sup>6</sup> *Cambridge Hist. of India*, p. 129, V. A. Smith, J. M. S. 1897,

pp. 412-2.

<sup>7</sup> *Ibid.*, pp. 412, 413.

"Cultivators should pay a tenth, eighth or a sixth part of their produce as revenue,.....a fiftieth part of profit on animals and gold; a twentieth part of the profit on trade and a sixth part of that made on fruit, honey, flowers, medicines and bulbs."<sup>1</sup>

Yajña's procedure is similar with slight differences here and there—

"One sixth of paddy, similarly in respect of all food grains; two per cent on animals, gold and clothes; one sixth of meat, honey, clarified butter, medicinal herbs, scents, flowers, fruits, timbers, leaves, deer-skins, earthen vessels, (baked), unbaked vessels, and bamboo works; one tenth profit on indigenous articles and twentieth of that on imported articles." Confiscation of goods is enjoined on non-payment.<sup>2</sup>

Māna has the following rates—

"One sixth or eighth or twelfth part of paddy or grains after due consideration of the strength of the soil, needs of cultivation and extent of labour; one fiftieth of animals and gold; one sixth of the profits on the sale of the seventeen kinds of goods, viz., trees, meat, honey, clarified butter, scents, plants, vegetables, juice, flowers, fruits, leaves, roots, grass, wicker-work, earthen vessels and those of leather, and stone articles.<sup>3</sup> And one-twentieth of the sale proceeds from traders."<sup>4</sup>

The Mahābhārata recognises without much particularisation—

"One sixth part of grains and customs"<sup>5</sup> one tenth of paddy, one fiftieth of animals and gold.<sup>6</sup> It also

<sup>1</sup> *Śaṅkara Smṛiti*, II, p. 279, *Datta's Treatise*, I, B. E. II, p. 380.

<sup>2</sup> *Yajña Smṛiti* III, p. 403, *Datta's Treatise*.

<sup>3</sup> *Māna Smṛiti*, VII 153, 154.

<sup>4</sup> *Ibid.*, VIII, 226.

<sup>5</sup> *Śikṣā Parva*, VI.

<sup>6</sup> *Ibid.*, 47.

adds things needed for the personal use of the king,<sup>1</sup> as well as import and export duties, fines and forfeiture<sup>2</sup>

Thus the *Ēpic* adds to the law books something which is not there. This is a decided advance but does not stand on par with what is to be found in Kautilya's *Artha-Śāstra*.<sup>3</sup> The following details show the highly technical and specialised treatment, never found elsewhere within the limits of Indian Political Literature.

The kinds of taxes noticed in the *Artha-Śāstra* are roughly indicated, their subdivisions being left out—

"Revenue from forts, country-parts, mines, buildings, gardens, forests, cattle, roads, imports, exports, and port-towns, and special taxes."<sup>4</sup>

Something of the rates may be seen here like the above—

"Taxes that are fixed (*pipṣikāra*), that are paid in form of one sixth of the produce (*saṣṭhāga*), provisions for the army (*saṁbhakta*), taxes that are levied for religious purposes (*balli*), tribute from vassal kings and others (*ksara*), special collection on the birth of a prince (*utsarga*), taxes from margins (*parava*), compensation from damages (*paribhaka*), presentation to the king (*suptyanika*), taxes on lands below lakes, tanks, etc. built by state (*śaṁśābhayaka*)."<sup>5</sup>

Kāmaṇḍaka mentions eight sources of revenue purely in imitation of Kautilya's *Artha Śāstra*—

"Agriculture, communications (to facilitate commercial traffic) entrenchment of strong-holds for soldiers in the capital (for protecting merchants), construction of dams and bridges across rivers, erections of enclosures for elephants, working of mines and quarries,

<sup>1</sup> Ibid.

<sup>2</sup> Ibid. II, 20; Hindu Policy, Pt. II, p. 109.

<sup>3</sup> See Indian Antiquary, Vol. XXXIV, 1905. Dr. Soma Sastri's articles on the subject.

<sup>4</sup> *Artha Śāstra*, pp. 65, 118, 119, 126, 127.

<sup>5</sup> Ibid., pp. 118, 119.

selling and selling timber, and the peopling of uninhabited tracts—these eight-fold sources of revenue the sovereign should ever enhance."<sup>1</sup>

Śukra allows—

"Śulka (duty) from market-places, streets, and mines and from usury, the king's share being the thirty-second part, or the twentieth or sixteenth part—similarly one third, one fourth, and the half from places irrigated by tanks, rivers etc. ; one sixth from barren and rocky soils ; half of gold, one third of silver, one fourth of copper, one sixth of zinc and iron, half of gems, glass, lead, after expenses have been met."<sup>2</sup>

Although there is none the least uniformity in the rates of taxation in any period, or in the different authorities of different periods, they are interesting in the sense that they illustrate how revenue used to be collected by the ancients and how they calculated the proportions. Many other points of economic interest are imbedded in these dry lists of things and materials and the charges on them, but they do not concern political philosophy proper or the theories regarding them.

It is noticeable, that even if no permanent settlement was available in the days of yore, the rates were looked upon as pretty fixed on a vague average. This can be easily understood from a dictum of the *Mahābhārata*—Important as it is in more senses than one—where a king is called a "brāhmaca," (a mean injurer of men), who raises tax higher than what it used to be in the reign of pious monarchs, that is in the past.<sup>3</sup> Śukra has also the remark

<sup>1</sup> *Nīti Śāstra*, p. 60.

<sup>2</sup> *Śukra Nīti*, pp. 147 & 148 Cf. Sarkar, *Positive Background of Hindu Feudalism*, p. 318.

<sup>3</sup> *Udyoga Parva*, 48. It is said that "a king, who collects tax unjustly, is a *brāhmaca*."—*Āpārādhanā Parva*, 120.

that "people do not like new taxes" generally.<sup>1</sup> Of course no rule could have been laid down on a thin basis like the above, but it was certain that even in taxation a rough customary calculation had sufficient influence on the minds of the people. An extreme "avidhara" could thus through greed and headiness upset the balance of the state. The whole question really involved the change of rates from past ones to the immediate demands.<sup>2</sup>

### Labour as Tax

Tax rendered in the shape of labour was a common method of payment, countenanced in the law-books and other political literature, as parallel to payment in kind. The king was empowered to have manual work by turns from all artisans and labourers, or those who had to live by labour.<sup>3</sup> It is not certain what status these people had in the state. Most probably the principle was not to touch their earning, either because it was very small, or for the purpose of encouraging their respective vocations. Nothing can also be said with certainty as to what was exactly meant by insisting on payment by labour, although it had its positive utility and object for the time. Yet it ought to be considered as a special kind of tax, but its rates would not be different and various enough to be traced out here. Manu's standard is one day per month, as of Gortana and Śakra's one day per fortnight.<sup>4</sup>

### Spiritual Tax

Spiritual Tax is uniquely and essentially a Hindu conception rising out of the intimate relation and reciprocity between the king and the people. It has been

<sup>1</sup> Śakra Niti, p. 89.      <sup>2</sup> See Sūtra, Ch. VI, Revolution & Revolution.

<sup>3</sup> Gortana, I, p. 479; Manu Smṛiti, VII, 148; Rājataranginī, Varāha Purā 18. Artha Śāstra, pp. 145 and 146; Śakra Niti, p. 146.

<sup>4</sup> Manu Smṛiti, VII, 148. Gortana, I, p. 479; Śakra Niti, p. 146. Caṇḍi, Hist. of India, p. 145.

already incidentally alluded to in Chapter II on the Nature of Kingship and is detailed out in Chapter XIV on the Philosophy of Dharma. Although it has no material value, nor any economic significance, still it is closely associated with the policy of the state in its important issues in determining the character of the people. Hopkins has indicated that "the royal tax is not only in kind, material, but also spiritual." In all probability this idea comes from the natural expectation of having a share of the prosperity of the people, first material, then spiritual, the first is tapped by taxation as usual, and the second holds good in theory only. Certainly the king is the partaker of the fate and fortune of his people, and this may be extended to the spiritual sphere as well.

Mr. Jayarwal has traced this kind of tax to the Vedic time when the priest was supposed to pay taxes in the shape of religious merit.<sup>3</sup> In the contract theory of the Mahābhārata this tax is mentioned last of all together with the other kinds of taxes. It is instituted with the contract itself and in fact is a part of it. So it is said—

"You will get one-fourth of the religious merit of those religious works, which we shall perform being protected by your prowess."<sup>4</sup>

This share and its exact proportion are both repeated more than once in the Epic, showing that it was well accepted at the time.<sup>5</sup> Manu says "the king gets the sixth part of the spiritual good (dharma) of his subjects well protected",<sup>6</sup> Bandhayana and even Susradeva Sūri have the same rule.<sup>7</sup> An important reservation is also mentioned by the Epic, so as to make the theory of spiritual taxation

<sup>3</sup> *History of India*, p. 308.

<sup>4</sup> *Manu and Yajñavalkya*, p. 305.

<sup>5</sup> *Upadharmaśāstra* Parva, 62.

<sup>6</sup> *Ibid.*, 73, 73, *Cāyapa* Parva, 139.

<sup>7</sup> *Manu Smṛiti*, VIII, 26, p. 429.

<sup>8</sup> *Vide above*, *Śrībhāṣya*, I, p. 68.

operative in both ways. In case of bad protection, or misrule, one-fourth of the people's sin would also go to the king as his portion.<sup>1</sup> Manu endorses it with one-sixth portion of the demerits of the subjects<sup>2</sup> and also the whole of their demerits on second thought<sup>3</sup>, on the simple principle of reciprocity. If he has the share of the merits, let him also have an equal share of the demerits almost like the fisherman's reward in the fable going to the gate-keeper as his dues. The real point is that the king is responsible for the moral and spiritual progress and decay of the state in his charge.

Some of the law-books (Gautama, Yājñavalkya Vāsishṭa), have the same idea as to the king's share in the merits and sins of the people.<sup>4</sup> From the side of the people it is added that by paying tax to the king the subjects are exonerated from sin.<sup>5</sup>—that is to say non-payment of tax is a kind of sin. The whole theory is more canonical than political and economic.

### Exceptions<sup>6</sup> and Exemptions

Over and above the general processes of taxation dealing with principles and rates, there were necessary exemptions according to the nature of time and circumstances. A type of exception,—if it may really be so called—to the common rule already seen, was that the rich were heavily taxed from the Vedic time down to the age of

<sup>1</sup> Bṛhaspati Smṛiti, Para 73.

<sup>2</sup> Manu Smṛiti, VIII, 204, p. 492.      <sup>3</sup> Ibid. VIII, 205, p. 492.

<sup>4</sup> Gautama Smṛiti XI, p. 661. Vāsiṣṭa Smṛiti III, p. 126. Yājñavalkya Smṛiti, p. 50, Duff's Trans.

<sup>5</sup> Parameśvara Smṛiti, II, 14, p. 245.

<sup>6</sup> See author's article, "Principles of Hindu Taxation", in the Indian Historical Quarterly, 1934. Cf. Dr. Ghose's "Hindu Revenue System", 1929, pp. 155 E.

Śukra.<sup>1</sup> On the other end of the scale restrictions were allowed as special cases unavoidable and unforeseen. The Brāhminas as a class and women were generally free from all payments.<sup>2</sup> A short survey will elucidate the conditions underlying all such exceptional procedure.

The Mahabharata emphatically forbids taxing when there is no rain and the crops have not grown. Poor men, children and women are exempted from taxation on the ground that they cannot earn anything. The following lines from the Epic bear on the point—

"If on account of draught people cultivate (their lands) by drawing water from wells (dig for the purpose), it will not be right for the king to tax them then. The king should carefully protect the poor, the old, the blind, and children. No tax should be taken from women, who are not in a position to pay. Tax on the slender means of the poor destroys the glory of the king and the state. Six visits the king in whose kingdom children wistfully look at good food which they cannot get to eat.<sup>3</sup> Surely the hungry looks of the poor burn mankind."<sup>4</sup>

Manu has a qualifying statement in this respect, advising very light taxation in case of the poor.

"From the poor subjects, even those who live by selling vegetables, the king should take a little tax."<sup>5</sup>

And there is also a slight hint as to the maintenance of the poor, helpless and those without any qualification (capacity for earning).<sup>6</sup> It is no wonder that Śukra

<sup>1</sup> See Śukra, also *Iṅg Veda*, I, 62, 4, p. 28; Śukra Smṛ., p. 123.

<sup>2</sup> *Crash. Hist. of Ind.* p. 247.      <sup>3</sup> *Jambhvan Parva*, 42.

<sup>4</sup> *Ibid.* 21.      <sup>5</sup> *Manu Smṛiti*, VII, 127.



considers Manu's scheme to be meant for the times of danger.<sup>1</sup> Valishtha is similarly for taking a very small tax from artisans, but leaves free the aged, the widows, unmarried girls and students.<sup>2</sup> Further he adds that—

"There is no duty on livelihood gained by wit, nor on infants, nor on an emissary, nor on what is gained by begging, nor on the residue of a property left after a robbery, nor on a *śrotriya*, a religious mendicant, and a religious sacrifice."<sup>3</sup>

Gautama exempts duties when things are sold at a lower price<sup>4</sup> and so does Śukra when things are unsold.<sup>5</sup> Valishtha exempts tax on rivers, grass, forests, mountains, and places for cremation.<sup>6</sup> Kaṣṣiya has no tax in a number of cases, the most prominent among them being—

"Living in tracts of low or middle quality, acquiring uncultivated land, being a learned man, an orator, charitable and brave, having no subsistence, emergent occasions."<sup>7</sup>

When Manu, Valishtha and Apastamba<sup>8</sup> are combined the list of exemptions will include—(1) the king's man, (2) the helpless, (3) an ascetic, (4) the old, (5) an infant, (6) a student, (7) women (widows, maidens and servants' wives), (8) a messenger, (9) Śūdras (10) the infirm (blind, deaf, dumb and diseased). All such considerations go to show that the ancient law-givers and politicians tried to meet the demands of their times in regard to poverty and other economic conditions including failure, partial and otherwise, of business and similar incidents. The balance between economics and politics was maintained as

<sup>1</sup> See Supra. Section 2a.

<sup>2</sup> *Ibid.*

<sup>3</sup> Śukra VIII, p. 147.

<sup>4</sup> Artha Śāstra, pp. 53, 114, 302, 429.

<sup>5</sup> Manu quoted by Valishtha, XIX, 28, 29; Apastamba, II, 18, 22, *Āśāda Rev. System*, p. 129.

<sup>6</sup> Valishtha *Baḥiṣat*, XVII p. 584.

<sup>7</sup> Gautama *Baḥiṣat*, X p. 379.

<sup>8</sup> Valishtha *Baḥiṣat*, XVII p. 504.

fairly as possible, since both are so related as to react mutually at all times and under all circumstances.

The question of the Brāhmanas' immunity from taxation coming down from the days of the Śatapatha Brāhmana<sup>1</sup> deserves special attention and treatment. According to Mr. Jayaswal such immunity began earlier in the Vedic priest's freedom from payment of levy dues on the ground of his contributing religious merit.<sup>2</sup> Old as the custom is, it is a point which has often been suspected to be economically unsound and partial in principle.<sup>3</sup> Kanṛīya, who has even the "hermit's tax,"<sup>4</sup> is not willing to make any the least allowance on any ground. Somadeva in his *Nīrivākyamṛitah*<sup>5</sup> also uses similar language and that exactly on the same principle. But the exemption has a value and economic importance, although it is by no means absolute. It is admitted everywhere in Hindu Politics and is accepted as such<sup>6</sup> by the law-givers, having at the same time that reservation which preserved the rule but stopped or at least obstructed abuse. In fact it really turns on and is conditioned by actual and proper Brāhmanical functions and duties, and is in this sense somewhat like the "activities" mentioned by Mill.<sup>7</sup>

<sup>1</sup> See Br. V 2 2 10 B. V. 4 2 2 B. ŚBR. XII, pp 75-93.

<sup>2</sup> *Manu and Yājñavalkya*, p. 166.

<sup>3</sup> See Dr. Law's *Ann. Ind. Polity*, p. 150.

<sup>4</sup> *Artha Śāstra*, p. 90.

<sup>5</sup> "Even those practising asceticism in the forest and living by glancing over from the fields pay one-salka of 4 to the king. It is the slaves of him who possess them" (*Nīrivākyamṛitah*, VII, p. 38, vide *Hindu Polity* II, p. 20).

<sup>6</sup> *Caṇḍakā Śaśikā*, I, p. 673; *Vaiśākha Śaśikā*, XVII, p. 208; *Yājñ. Śaśikā*, III, p. 203; *Rāpotharmasamāsa* Parva II; *Mahābhārata* Parva, 202; *Manu Śaśikā*, VII 125. *Artha Śāstra*, pp. 52, 202; *Sāstra Mā*, pp. 202 and 203 (indirectly).

<sup>7</sup> *Mill, Prin. of Pol. Econ.*—p. 92.

The orthodox classical writers explain the Brāhmanical privilege by the idea of exchange. The Brāhmana's gift of religious merits, was assumed to take the place of taxes. As exhibited below these religious merits probably involved study, teaching, writing and other cultural (philosophical and scientific) activities besides sacrificial rites. So says Manu supported by Āpastamba, Viṣṇu, Yāgyalkya and Bṛhaspati—

"He (the king) shall not collect revenue from Brāhmanas, for they give virtue as tax unto the king."<sup>1</sup>

"The Śrotriya's daily religious work, when properly supported by king, gives prosperity to the state and wealth and long life to the king himself."<sup>2</sup>

"It is said that the Brāhmana first made the Vedas known, the Brāhmana saves (one) from misfortune. Therefore a Brāhmana shall not be made to pay taxes."<sup>3</sup>

But the heterodox thought of the Mahābhārata qualifies the above assertion by adding that—

"Those Brāhmanas, who are not Śrotriya (i.e. learned and pious), nor have the household for going, should be taxed by the king and set to work without pay."<sup>4</sup>

Moreover even a later work as the Devī Bhāgavata recommends the same radical procedure with regard to a Brāhmana, who does not discharge his duties and does not do the function for which he is meant in society. As a matter of course the Brāhmana has his own well mapped-out social obligation. Disregard of this brings him within the operation of the drastic rule, in the Devī Bhāgavata and the Harivamśa, which runs as follows—

<sup>1</sup> Yājñ. Smṛiti, III, p. 338. S. B. E. VII p. 10.

<sup>2</sup> Manu Smṛiti, VII, 138.

<sup>3</sup> Yājñalkya Smṛiti, I, p. 110. Devī's Tr. : Bhāgavata (35-4-1-147).

but the same idea, also Āpastamba, II, 10-20.

<sup>4</sup> Bhāgavataraṇa/Manu Pura, 77.

"The king ought to consider as Śūdra that Brāhmana in his kingdom, who is devoid of the Vedas (i.e. Vedic knowledge) and is unlearned and therefore fit to be taxed (like the other castes) and set to ploughing the land."

"But a Brāhmana, who has no touch with Vedic learning, should be forced to do the works of the Śūdra by all righteous kings ..... he is to be counted a non-Brāhmana."

Even the great champion of Brāhmanism, Manu, advises royal support of Brāhmanas after the proper examination of their works and conduct,<sup>1</sup> and Brahmanical works and conduct are too well known to require any comment. Parasara goes so far as to prescribe punishment for Brāhmanas, who do not study and teach but live on charity.<sup>2</sup> A comparison with Mill's statement will bring out the principle underlying Brāhmanical humanity—

"As to the Utilities fixed and embodied in human beings—the labour being in this case employed in conferring on human beings qualities, which render them serviceable to themselves and others. To this class belongs the labour of all concerned in education, not only school-masters, tutors and professors, but..... moralists and clergymen as far as productive of benefit, physicians as far as instrumental in preserving life and physical and mental efficiency, the labour of various trades, sciences and arts .... and all labour bestowed by any person throughout life in improving knowledge or cultivating the bodily or mental faculties of themselves and others."<sup>3</sup>

<sup>1</sup> Deva Bhagvata, p. 101.

<sup>2</sup> Harivamsa, Vidyotsava Parva, p. 52.

<sup>3</sup> Manu Smṛiti, VII 132.

<sup>4</sup> Parasara Smṛiti, I 44; XI, 95. Theory of Govt. in Anc. Ind., p. 120.

<sup>5</sup> Mill's *Princ. of Pol. Econ.*, p. 29.

The regulations about taxing Brāhmanas, therefore, yield to the general rule of unproductive labour. Reading between the lines, it becomes clear that no one was allowed to be fallow, that is labour from all in some shape or other was necessary for social good and the maintenance of the state. The Brāhmana could not be allowed to cause economic loss to society and the state. He had to be useful in some way, either by plying his own legitimate vocation or by doing other works. That the state had the power of forcing the highest caste to be really and directly productive, in default of all the utilities for which it was left free to itself, shows a thorough grasp of sound economics. Certainly this economic truth had to be perceived and worked out, before it could be promulgated as a principle and enacted as law. Mr. Jayaswal thinks there was a difference between the Dharma School and the Artha School of law-givers on this principle of taxing Brāhmanas, the former being traditionally orthodox naturally opposed such levy, while the latter supported it as a governmental necessity.<sup>1</sup>

<sup>1</sup> Hindu Polity II, p. 32.

PHILOSOPHY OF DHARMA<sup>1</sup>

## Definition and Scope

Law is genetically connected with custom and mores but with abstract truth, so far as its nature is concerned. Law expresses the truth underlying creation and conduct and is thus a standard or ideal. Mr. Anubinda Ghose has characterised it as an "impersonal authority sacred and eternal in its spirit and the totality of its body".<sup>2</sup> It is the sanction for and at the same time the evaluation of *danda*, or state authority, since the state would be blind without it, in the absence of some form of guidance and direction. The state upholds it for its nature, which helps the state to realise some truth, or part of it, within its jurisdiction. Whether metaphysical or empirical, its normative character is correlated with the doctrine of *danda*, as power over individuals living in society and this constitutes its positive side. "The object of law (*dharma*) and its administration", says Mr. Jayaswal "is the maintenance of peace and order in the community according to the *Mānava Code* (VII, 22 ; 18 ; 20)."<sup>3</sup>

*Dharma* is defined in the *Epics* from its root "*dhri*", to hold—"it is called *dharma* because it holds (contains and sustains) all beings"<sup>4</sup> with a direct reference to

<sup>1</sup> M. B. For the technical uses of *dharma*, see Central Conception of Buddhism, 74, *Buddhist Psychology* (Introduction); *History of Indian Philosophy*, pp. 214-215. Ordinarily, it is taken to mean law.

<sup>2</sup> *A Del. of Ind. Cal.*, Arya, Del. 1930, p. 173.

<sup>3</sup> *Manu and Yājñavalkya*, p. 80.

<sup>4</sup> *Kaṇva Purāṇa* 70. This is universally accepted as the meaning of *Dharma* as well as its function.

society at large. "Such a conception must have arisen very early in the formation and growth of the association of individuals in societies . . . covering every form of human action" says Dr. Thomas.<sup>1</sup> It has a simultaneously collective and individualistic significance, because it is the universal which expresses itself in and through the particulars. Dr. Beni Prasad speaks of it as the great "harmonising principle, the ruling force, the foundation of social order." As an inner impulse it urges all towards reasonable standards of life and conduct and as a creation of the social spirit it emanates from the whole to be impressed on the individual. The unity behind law shows it in relation to morals and society, for without law they are liable to lose their reality and security. Yet law needs to be explained as to its permanency, authority and operation, since "it is means for realising in a particular way some ends derived from the different interests of life".<sup>2</sup> The *Mahābhārata* has consequently recommended "The justification of law (*dharma*) through ethical reason." To discover "the legality of law",<sup>3</sup> is what is wanted to explain law satisfactorily.

## The Basis of Law

### *Metaphysical View*

As the expression of system or order Law was the sublime theme of the Vedic time. It supplied the basis of ethical and social ideas reflecting itself as the concrete social order as well as in custom and usage, and probably it was known in its narrower sense through the dictates of the Vedic Assembly, which was a national institution

<sup>1</sup> Thomas, *Law of India*, p. 174.      <sup>2</sup> *Thom of God* at 420, 12d p. 12.

<sup>3</sup> *Spirit of Hindu Law*, A. C. Gupta, Cal. Law Journal, XLIII, Jan. 1908, p. 10.

<sup>4</sup> *Rasikamandana* Part. 141, 142.

<sup>5</sup> *A Grammar of Politics*, p. 155.

of the Vedas in general. But its abstract foundation conveyed the most poetic and lofty vision of the sages. It was elevated to the highest, while the stages of the process of civilisation gave glimpses of real philosophic depth revealing the meaning of the world order as a whole. A type of philosophy of law is traced in the ancient Vedic literature, yet unexpanded into schools.

Law (*dharma*) is used in two senses, closely related to each other in ancient Indian thought. "To maintain law in its wider sense, all its legislative activity had to be guided and controlled by the existence of law as an ideal" according to Mr. Aiyangar. It is exactly here that the philosophy of law intervenes and shows the higher reaches of legal thought. Rising from the idea of order in the Vedas, it spreads over all fields of human activity. The gods of the earliest ages all stood for order or system of some kind in their own spheres.<sup>1</sup> Their decrees and statutes, whether of Varuna, the Ethical god, or of Indra, the natural god, meant regulative principles of nature and society. The projection of this idea into all departments of human life was only a natural and legitimate procedure for the early thinkers. They saw order everywhere in the world and declared "order dwells amongst men, in truth, in noblest places."<sup>2</sup> After this, the foundation of moral, social and political law was laid down for ever.

Max Muller contends that "in the Vedic hymns *rita*, meaning the order of the heavenly movements, became in time the name for moral order and righteousness."<sup>3</sup> The character of this ever-present harmony in the

<sup>1</sup> Aiyangar, *Ancient Indian Polity*, p. 63.

<sup>2</sup> Grisevall, *Religion of the Rig Veda*, pp. 109-111.

<sup>3</sup> *Rig Veda*, IV, 28, Best's Trans.

<sup>4</sup> Herbert Lock, 1926, p. 325.





the North Pole – the one abiding reality, and law and order, as the working of harmony and interconnection are its changing and its many as its different phases. In this period the *ṛita* seems to be definitely replaced by the word *dharma*, the former being simpler as the latter is highly complex, but the conceptions are closely parallel. And both are found in the *Rig* and the *Atharva Veda*.<sup>1</sup> The two conceptions of law and order, *dharma*, *ṛita*, are ultimately connected.....logically related to each other, and tend to merge into each other, for law in the scientific sense of sequence and co-existence is another name for order and harmony."<sup>2</sup> The advance of Vedic thought consists in more abstract procedure and better analysis. If law and order are analysed the remainder is abstract truth; that which is true in law and order is truth, that is law is truth. And nothing but truth endures, for truth is the measure of the degree and extent of reality. Law is powerful and lasting because it pertains to truth. It was the age of the solidification of thought and the *Bṛhadāraṇyaka Upaniṣad* (I. 4. 11-14) crystallised the idea almost to finality in its famous passage quoted below—

"Brahmā (the supreme Being) created the most excellent law. Law is the king of kings.<sup>3</sup> Therefore there is nothing higher than law. Thenceforth even a weak man rules with the help of law as with the help of a king. And if a man declares what is true, they say he declares law, and if he declares law they say he declares what is true.<sup>4</sup> Both are the same."<sup>5</sup>

<sup>1</sup> *Vedic Index*, I, p. 88.

<sup>2</sup> *Studies in Hindu Political Thought*, p. 93.

<sup>3</sup> Cf. *Tagoreśvaragga Abhigāna Sakya—Dharmā*, p. 243-244.

<sup>4</sup> Cf. Dr. Bernal's *The Hinduistic Philosophy* on the relation between truth and law and the meaning of *ṛita*, pp. 85, 155-6.

<sup>5</sup> I. 4. 11-14, *B. C. Deo's Trans.*

"political sanction": pure and simple, to use Bentham's oft quoted phrase. Mr. Jayaswal has shown that even in the *Mahābhāṣya* of Patañjali (I. 1. 47), "the order of the ruler" has higher authority than the *Dharma-Sūtra-Kāra* (makers of legal aphorisms).<sup>1</sup> The same strain is found in Kaṇṇiṣa, who is for accepting as law the "royal command enforced by sanction".<sup>2</sup> Speaking of such commands, he mentions "thirteen purposes for which royal writs are issued, and as regards their varieties he gives the following :—

"Writs of command, of information, of guidance, of remission, of license, of gift, of reply, of general proclamation".<sup>3</sup>

The Epic endorses Kaṇṇiṣa's view and states clearly that—

"Whatever he (the king) shall fix as *dharma* (law), is to be considered actual *dharma* (law)".<sup>4</sup>

Mitra has shown the rise of (*vyavahāra*), positive law, because of the neglect of duty on the part of men,<sup>5</sup> and Brihaspati has closely followed him.<sup>6</sup> This tentamenum to positive law in the shape of king's order, necessitated by the peoples' conduct, who did not do their parts and were therefore forced to do them through the machinery of the state. Professor Sarkar says "the performance of duty having fallen into disuse, positive law (*vyavahāra*) has been introduced and the king as superintending the

<sup>1</sup> *Paraglot of Manu and Legislation*, III.

<sup>2</sup> *Manu & Tithirāṣya*, p. 79—Traditional Law actually includes Unmade laws according to Manu (VIII-3).

<sup>3</sup> *Arthśāstra*, p. 68. *Pol. Theo. & Inst. of Hindus*, p. 399.

<sup>4</sup> *Artha Śāstra*, p. 48.

<sup>5</sup> *Bhāṣyakārikāśāstra* Parva, p. 21. Cf. *Dharma Śāstra* "the dictates of good man and superior" (*Śāli* Parva, 113; *Yama* Parva, 306).

<sup>6</sup> *Mitrak*—*Text*—1, 2 (S. B. S.).

<sup>7</sup> *Brihaspati* 1, 1 (S. B. S.).

law is known as *danda-dhara*\*, or the infliction of punishment<sup>1</sup>. It is worthy of notice that Manu took a middle course in recommending the king to declare law, having first referred to sacred texts and old customs.<sup>2</sup> Bṛhaspati likewise says that "a decision must not be made solely by the letter of the written codes" ; "the season of the law" and "traditional usage" are also factors for consideration.<sup>3</sup> The whole process may aptly be compared with the analysis of law given by Burns and the steps are unexpectedly parallel.<sup>4</sup>

Śakra, in spite of his wide outlook, seems to have walked in the steps of Kaṭilya in respect of positive law. He admits direct promulgation of laws by the king.<sup>5</sup> Moreover these laws are to be given the widest publicity by means of drums and notices,<sup>6</sup> backed up by the categorical statement that "I (the king) will surely destroy by severe punishment those offenders who after hearing these my decrees would act contrary to them".<sup>7</sup> Hence the king has been strongly called "the maker of the age", and with it of good and civil practices.<sup>8</sup>

The Mīmāṃsā dictum, which is parallel to the views of Hobbes and Bentham, provides the most succinct defini-

<sup>1</sup> Pol. Theo. & Inst. of Hindus, p. 309.

<sup>2</sup> Manu, VIII, 41. But in VII, 13, Manu and his commentators have both accepted 'rajasaṁhitā' in the sense of positive law.

<sup>3</sup> Quoted from Vyākhyāna-bhāṣya to B. Rāj's Customary Law, p. 13.

<sup>4</sup> Democracy, Its Defects & Advantages, p. 88.—"Laws were regarded simply as statements of established custom by a specially inspired King. Laws in fact were not supposed to be made, but only to be acknowledged and expressed. When a re-statement of an old custom was seen to be inadequate, the only method of meeting the new needs was to use traditional governmental power as evoked, in order to set up a new system. But governmental power was submitted by custom and laws were therefore regarded as the will of the sovereign."

<sup>5</sup> *loc. cit.* p. 30.

<sup>6</sup> *Ibid.* p. 31.

<sup>7</sup> *Ibid.* p. 46.

<sup>8</sup> *Ibid.* p. 125.

tion yet found of positive law in Hindu thought. According to Jainist dharma is "Chedanālakṣaṇorthe" that is "that desired for object which is characterised by command".<sup>1</sup> In substance it is just the Austrian concept that "laws are rules enjoining obedience".<sup>2</sup> "Jainism has also examined the reason, as to why that which is determined by a command should be obligatory. He analyses the reason as lying in the fact that the relation, between the word of command and the purpose to which it is directed, is eternally efficacious".<sup>3</sup> Yet it needs to be added that "moral impulsion thus involves the agent's relation to the command, as well as his relation to the act commanded, but the latter is derivative, being mediated through the former relation, which is the revelation of law".<sup>4</sup>

In Nārada and Brīhaspati, positive law is seen to be above all other laws and both are emphatic on this point. By their time it is certain that the power of the state was consolidated to a great, if not the greatest, extent. Nārada says—"Royal order over-rides such laws,"<sup>5</sup> while Brīhaspati adds that—"where the king, disregarding established usage, passes a sentence (according to his own inclination) it is called an edict."<sup>6</sup>

The question still remains open, as to how law is properly reached by a group or an individual, through agreement or command. What is there in the consensus of wise men to reveal law, and what is that of which a

<sup>1</sup> Jainaśāstra, Vinayak Sūtra, 1. 1. 3. 3. Cited in Winchoven in Gerardi, *Op. cit.* p. 54. Pol. Theo. & Law of the Hindus, p. 308. J. B. De-Maria says "a scriptural law (śāstra) may be either a positive (vidhā) or a negative prohibition (nidhā). It relates to an action or positive act in the first case and prohibits its accomplishment as dharma, in the latter case it relates to some worthy or evil and prescribes abstention. (Ritual of Hindus, p. 125)

<sup>2</sup> Quoted in Vinogradoff, *Custom and Right*, p. 8

<sup>3</sup> Pol. Theo. & Law of Hin. p. 308.

<sup>4</sup> *Essays of the Hindus*, p. 148.

<sup>5</sup> XVIII 24, = B. B. 34, p. 117 & 121.      <sup>6</sup> = B. B. 34, 35, p. 121.

lawful considered is made.<sup>1</sup> The problem in this shape is epistemological and turns to the source of the knowledge of law that is the mind of man, as capable of evolving it in course of its search for the immutable in the midst of change—a meaning for the manifold phases of experience, in short, a realisation which can give it satisfaction.

### Rational View

Again, the source of dharma is said to be reason, in the sense of higher reason. The revelation of reason or conscience gives the knowledge or intuition of dharma, which is authoritative. It is called "self-satisfaction", as different from deliberation as a logical process. Manu mentions this "atma-tushti", as well as Yājñavalkya, and both agree that it leads to dharma, or in other words yields dharma in its own sphere—it being of the same order as the other sources of law in their treatment.<sup>2</sup> But they have not laid down any limitation to its application.

Medhātithi and Vijñāneśvara raised the point as to when it should be really and actually applied. As a matter of fact they doubt if conscience could be the absolute guide for the purpose of dharma. Medhātithi has, therefore, qualified it with the word "sadbhāvanā", that is of the good.<sup>3</sup> The conscience only of the virtuous is trustworthy. It becomes clearer when Kumārila's criticism is subjoined, who shows that "Manu could not have contemplated the satisfaction of evil passions by atma-tushti".<sup>4</sup> On the contrary Vijñāneśvara allows self-satisfaction from conscience to operate in the field of alternatives, where choice can be made between a number of injunctions. He definitely says "it relates to optional matters—

<sup>1</sup> Manu Smṛiti, II, 6-19, Yājñavalkya Smṛiti, I, 9.

<sup>2</sup> Manu, Medhātithi's Ed. I, p. 100.

<sup>3</sup> Sources of Law and Society in Asia, Vol. I, p. 84.

in selecting any one of the alternatives."<sup>1</sup> Both commentaries have thus kept within the sphere of orthodox, by straining the point too much.

Manu, Yājñavalkya and Nārada have enunciated another principle, that of *discretionary reason*. It is called 'sankalpa<sup>2</sup>pamāṇakāraṇaḥ' and 'sankalpa<sup>3</sup>pajālakṣaṇaḥ'—*desire rooted in or born of deliberation*.<sup>4</sup> Here deliberation (or reasoning) is the prime factor in giving rise to dharma. It is made secondary indeed but it is nevertheless important. While Manu says "all dharmas...are born of deliberation", Yājñavalkya says they are rooted in deliberation. Medhavi and Vyāsaśvara have for this the limitation that desire must not be "opposed to sacred law."<sup>5</sup>

Nārada also upholds critical reason and gives it a place very significant from the stand-point of the proper adjustment of contradictory rules of the śāstras. It is reason which decides the case and elicits true dharma and is therefore equal to criticism and reconstruction of dharma. Nārada's line is—

"In case of differences in dharma-śāstras, the right way is said to be with reason."<sup>6</sup>

Bṛhaspati says—

"In case of conflict between two smṛtis, equity should be resorted to ; when the law-books are inapplicable that course should be followed which is indicated

<sup>1</sup> Macdonell, S. C. Vyāsa's Ed. p. 14.

<sup>2</sup> Manu Smṛiti, II, 4, Yājñavalkya Smṛiti, 1, 5.

<sup>3</sup> Macdonell's Manu, I, p. 92. Vyāsa's Mīmāṃsā, p. 14. See Sources of Law & Society in Anc. Ind., p. 65.

<sup>4</sup> Nārada, I, 40. "Dharma śāstra śroṇṇatya Yathāyathā<sup>4</sup> vācyaḥ". The high regard for reason is further illustrated in Smṛiti, in the Tugvāṇḍīya Samhita, where it is categorically asserted that "irational words, when spoken by (the god) Bṛhaspati himself, should be rejected like dross. Even man-made śāstra is acceptable if it is amenable to reason for indicating truth" (Macdonell's Prolegomena, 18, p. 80).

by the consideration of the circumstances of the case".

Dr. Sen Gupta has remarked on this position—"By putting it forward as a source of law the authors were not recognising any principle like the Equity of Rome or England, but simply laying down that law was rationally interpreted and applied".<sup>1</sup> Yet it seems that the Hindu legislators saw in reason a real constructive element which brought out some newness for dharma. The Epic has something to say on it starting with the assumption that "there are many doors to dharma",<sup>2</sup> and that "dharma is a very subtle thing".<sup>3</sup> "The more it is discussed the finer it becomes".<sup>4</sup> Consequently "the truth of dharma has to be found out by reason".<sup>5</sup> "The core of dharma is sought by the wise, just as hunters trace the bloody foot-marks of the wounded deer".<sup>6</sup> They can find out true dharma by separating it from true adharma.<sup>7</sup> Indeed "the wise gain dharma",<sup>8</sup> and "the wise indicated many kinds of dharma by the power of knowledge".<sup>9,10</sup> The supremacy of reason is established on the synthesis of conflicting experience—the high-road of philosophy which is fed by many tracks and path-ways from different quarters. But this type of reason is not the very last word in Hindu thought. It is subordinated to intuition or super-consciousness.

The knowledge of dharma is a corollary from the philosophical assumption of the source of dharma; it is not merely "self-satisfaction" spoken of above. Hence the question arises as to who knows dharma. The agreement basis of law is cut across by the great Epic, Yājñavalkya

<sup>1</sup> *Encyclopædia*, XXVII, 1, 33, B, E1.

<sup>2</sup> *Sources of Law and of Society*, p. 32.

<sup>3</sup> *Yodhādharma Parva*, 174.

<sup>4</sup> *Ibid.* 364.

<sup>5</sup> *Tpoddharma Parva*, 125.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.* 121.

<sup>8</sup> *Yodhādharma Parva*, 23.

<sup>9</sup> *Pratyagya Parva*, 34.

<sup>10</sup> *Apoddharma Parva*, 140.



and Śakra, when it is said that even one competent man could declare law. Just as one valid instance is sufficient to establish causation, so is one really wise man enough to reveal authoritative dharma. Yājñavalkya says that dharma may be "that which even one person, who is best among the knowers of the spiritual science, declares".<sup>1</sup> Patañjali gives the same rule—

"Even a single Brāhmana, who is a *vrata* (vow) with a knowledge of his self and devoted to prayers, performances of Vedic sacrifices and ceremonial oblations, may constitute in himself an assembly (for declaring law) in his own individual capacity".<sup>2</sup>

Śūtra allows a man to dictate under all circumstances if he is aware of dharma and śāstra—

"The man who knows dharma can speak whether appointed or un-appointed. He speaks the voice of God who knows the śāstra". "What only one man says can even be law, if he is spiritually minded".<sup>3</sup>

Thus the knowledge of dharma is at last but culture of the highest type, which is able to disclose the nature of ultimate reality. It depends on the "turning of the soul" in the language of Plato and this again is the pre-condition of the true philosopher. Truly "on the mind depends dharma and on the practice of dharma depends enlightenment".<sup>4</sup> An intuition of this kind alone can reveal the true nature of righteousness. This has been designated "*dṛṣṭi*" (vision) by Sren Koww, who thinks "that in India the highest ideas were evolved not as the result of reasoning or systematic constitution, but as a "*dṛṣṭi*" or

<sup>1</sup> Yājñavalkya Smṛiti, I-3.

<sup>2</sup> Patañjali Smṛiti, VIII. 20.

<sup>3</sup> Śūtra XVI, 135, 136.

<sup>4</sup> Ind. Phil. p. 439.

vision revealed to individual men",<sup>1</sup> though he does not mention how such vision was possible. Professor Mukherjee says that "Hindu Law is a system dominated by notions derived from psychology and philosophy..... It has tried to give expression to an abstract law, which transcends kings, judges, codes and even the community itself, and which the individual alone can realise in the pursuit of freedom, fractional groups and associations being merely instruments to help the individual in the realisation of this end".<sup>2</sup>

### Analysis and Application

Vijñāneśvara drew a legitimate distinction between Ethics and Law proper in his commentary on Yājñavalkya.<sup>3</sup> Even though this is the right procedure from the technical stand-point, the whole trend of Hindu legislation is to reinforce law with moral ideals and unperatives. The minute technique of codified law does not naturally concern itself with the question of sanctions, so long as its demands are satisfied by what is ready to hand. Consequently its application assumes primary importance. But in analysing law into its various expressions in society, reference to ethical principles becomes necessary and unavoidable, for law is at last the moral judgement of the race as well as of the age.<sup>4</sup> To find out the constituents

<sup>1</sup> New and Old Hinduism, Mod. Rev., Sept. 1926, p. 244. Professor Radhakrishnan has struck the right meaning by calling it "Super-consciousness" to which many names are given—intuition, revelation, higher consciousness, Godvision. "We cannot describe it adequately, so we call it the Super-consciousness" (Ind. Philosophy, II, p. 284. Cf. "Mystic Intuition" in Schopenhauer's Conception of Buddhist Nirvana, p. 16).

<sup>2</sup> Democracy of the East, p. 136.

<sup>3</sup> K. L. Sarkar, *Notes of Interpretation on Hindu Law*, Sec. X, p. 136.

<sup>4</sup> Cf. Macdonell, *Outline of Social Phil.* p. 95.—Laws are—charter important as giving definiteness and permanence to the best customs of a people, which must be engrained on their souls before they can have much efficacy on the statute books.

of law, or those manifestations of it, which are usually accepted unchallenged and unquestioned, it is pre-supposed that moral intuition, whatever be its metaphysical character and social vehicle, is at the back of the whole procedure as permanent base and constant support.<sup>1</sup> Its representation on the social and political planes is effected in various ways and that again according to the nature of circumstances. Thus it may be equated with custom, conduct, justice, duty and social good. These appear more or less important in proportion to their utility within the social structure and to the gradual advance of social thought.

(a) The most common expression of law is in custom in every country of the world. Both the Mahābhārata and the Manu Smṛiti have emphasised its usefulness. The Epic says that dharma (law) rises from and resides in custom.<sup>2</sup> Similarly Manu has declared—

'Custom is the highest dharma dictated by deus as well as smṛiti. The sages having seen the way of dharma through custom have accepted it as the root of highest tapas'.<sup>3</sup>

But it is to be noted that the Epic raises an objection here, which points to a different, perhaps an idealistic, interpretation that is in keeping with its philosophy. It definitely states "that custom alone cannot be dharma", for 'nowhere is found that custom which does good to all',<sup>4</sup> or which is not disregarded<sup>5</sup> somehow or somewhere.

(b) That law can be interpreted as good conduct is seen in Baudhāyana<sup>6</sup> and in the dictum of Yājñavalkya,—

<sup>1</sup> See supra. Basis of Law.

<sup>2</sup> Yana Parva, 168, Mahābhārata Parva, 358.

<sup>3</sup> Manu Smṛiti, I, 108, 110.—The Nyāyasmūtra speaks even of lokasampradaya or tradition as a standard. (See Ethics of the Hindus, p. 300).

<sup>4</sup> Mahābhārata Parva, 358.

<sup>5</sup> Ibid. 362.      <sup>5</sup> Ibid.

<sup>6</sup> II, 27, 38.

"Dharma is sadāchāra" (good conduct)<sup>1</sup>, although Bāṇabhaṭṭa is inclined to accept it as merely "conduct of good men", making the compound a tat-puruṣa one instead of karmadhāraya.<sup>2</sup> In such a case it is equal to the famous proverb—"Mahājānenagataśhsapanti"<sup>3</sup>—that is the way by which good men have trod.<sup>4</sup> The Mahābhārata has laid down that the objective of sadāchāra is good to the self<sup>5</sup> and "āchāra is the container of dharma which is known through it".<sup>6</sup> But it does not stop here; on the contrary it shows a vicious circle in the argument. It says—"in the sacred books dharma is defined as the conduct of good men and good men are said to be those who follow dharma. This indication marks out that dharma and good men are reciprocally dependent. Therefore who is good and what is dharma cannot be proved from this"<sup>7</sup>, yet "what wise men establish as dharma is merely followed even today".<sup>8</sup> Further "what may suit a man in good conditions as dharma may not be so to another in difficulty".<sup>9</sup>

(c) Law as justice is on the whole an abstract conception and consequently involves the idea of duty. It is here, as among the Greeks, that Hindu ethical thought touches the root of the problem. Manu says in an unequivocal way that "where righteousness is violated by unrighteousness and truth by falsehood...there the whole (judicial) assembly is said to be destroyed", for "righteousness violated destroys (the world), but maintains it when it is itself preserved".<sup>10</sup> Manu answers the old question,

<sup>1</sup> Vyākhyāna I. C. S. C. Vidyāsāstrī's Ed. p. 14.

<sup>2</sup> Bāṇabhaṭṭa's Gloss. S. C. Vidyāsāstrī's Ed. p. 14.

<sup>3</sup> Yuddharma Purā, 132.

<sup>4</sup> Anuśāsan Parva, 166.

<sup>5</sup> Mahābhārata Parva 324.

<sup>6</sup> Ibid. 323.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Manu Smṛiti, VII 12-13.

<sup>10</sup> Ibid.

—what is justice?—by saying that “it consists in the application of righteousness (dharma, law) to all cases arising between the members of the state”.<sup>1</sup> Similarly the Epic adds “equal consideration of all beings is the highest rule”. For “that man who considers all beings like himself is sought by the gods together with his supreme position beyond this world”.<sup>2</sup> “Equal protection of all, who are liked or disliked, constitutes dharma’s self”.<sup>3</sup> Śukra has the pithy hint that this moral virtue “is useful in all cases and is a means to the preservation of human society”.<sup>4</sup> It is thus intimately connected with the state itself.

As usual with the Mahābhārata theoretically justice is opposed by the extreme egoism of the type of Hobbesian and Nietzschean philosophy. This stratum of thought, running parallel to the excellent Idealism of the Epic, mixes freely with the layer of clever sophistry like that obtainable in Greek philosophy. Says the Epic—

“Some powerful men have concluded that it is wrong to appropriate by force is but the rule of the weak. The rich too designate it the rule of poverty, which is due to ill luck.”<sup>5</sup> “For the strong all acts are in accordance with dharma, all food is diet, all things are pure and personal.”<sup>6</sup>

In an Ideal of this type there can be absolutely no room for justice and fair-play. It is based on its psychological back-ground “that appears to be good to which people are excessively attached.”<sup>7</sup> Obviously this generalisation is in support of selfishness without bounds.

(d) The conception of duty (professional or otherwise)

<sup>1</sup> Told, VIII, 4 Cf. Pol. Theo. and Inst. of States, p. 380

<sup>2</sup> Mokṣadharmas Parva, 30.

<sup>3</sup> Śānti Parva, 131.

<sup>4</sup> Śānti Nidhi, p. 2.

<sup>5</sup> Mokṣadharmas Parva, 102.

<sup>6</sup> Kṛmānandya Parva, 74.

<sup>7</sup> Mokṣadharmas Parva, 131.



has in his Republic<sup>3</sup> the principle of functional differentiation and consequent duties. Huxley has spoken of a *parthogenesis* of this kind.<sup>4</sup> Tagore has pointed out that "to look upon one's own livelihood as *dharma* is only possible, where the good of society is recognised to be superior to the good of the individual",<sup>5</sup> the principle being worked out from the individual to society. *Sva-dharma* being accepted as the standard, the state was empowered to enforce it according to *Manu*, the *Mahābhārata* and *Bhāṣya*—

(1) "The king should not spare father, teacher, friend, mother, wife, son and priest, if any one of them does not keep to (his or her) own duty".<sup>6</sup>

(2) "It is the duty of the king to establish the people in their own and respective duties by putting on awe-inspiring mien."<sup>7</sup>

(3) "By the terrible use of the engine of sovereignty, he (the king) should maintain the subjects, each in his proper duty." And "so himself being dutiful the king should appoint the subjects to their own duties."<sup>8</sup>

(4) "The king, who punishes them that renounce their own *dharma* or follow another's, becomes glorified in the celestial region."<sup>9</sup>

But Epic sophistry raises the question that the conception of duty is very changeable. It asserts that "according

<sup>3</sup> See 10th Book's Trans.

<sup>4</sup> Huxley, *The Individual and Society* p. 21.—"Particularism assigns to each single soul within a specified order a certain definite place and gives him a definite task to perform, while the individual man, in engaged in the full development of his own personal powers, he is at the same time furthering the interests of the transcendental whole."

<sup>5</sup> "The *Sarva Dharma*" in *Mod. Rev.*, March 1937, p. 293.

<sup>6</sup> *Manu Smṛiti*, VIII, 295.

<sup>7</sup> *Igstharmas Purāṇa*, 143.

<sup>8</sup> *Sarva Smṛi*, pp. 11, 14.

<sup>9</sup> *Sarva Smṛiti*, 1, 27.





inclined to narrow it down only to its social application, as will be found below. Indeed the old criticism of the Buddhist divine *Ārya Deva* had already disclosed the "relativism" in the conception of mere *lokaśānti* or social stability as *dharma*.<sup>1</sup> Because—

"What is social stability is considered to be *dharma*,

".....which may change according to differences of country and time."<sup>2</sup>

The main drift of the Epic argument is that *dharma* is really "the good of all" and "is established for the course of the world."<sup>3</sup> Again—

"It is very difficult to find out real *dharma*. (But it is certain) that "It has been created for the sake of the prosperity, salvation and removal of the troubles of men. Therefore, that is true *dharma* through which

<sup>1</sup> See *Ethics of the Hindus*, p. 321.

<sup>2</sup> *Charvākitas* stated in *Ethics of the Hindus*, p. 321.—In later times this relativism is clearly avowed, as in the *Mahānirāya Tantra*, by changing the idea of *lokaśānti* (social stability), into *lokaśāra* (social good), and certainly it is a decided advance on ethical lines, for which the *Mahābhāṣya* may be said to be mainly responsible. Says the *Tantra*—

"The means, by which the highest good of the world (society) is attained, is duty for the knowers of God (Brahman) and eternal *dharma*, O Queen of the King of the gods." (*Mahānirāya Tantra*, III, 104. Mr. Dutt's translation is rather loose: Dutt's Ed., p. 40. Also see the *Life of Ram Mohan Roy* by N. Chatterjee, p. 524).

But the Nyāya-analytical monism both *lokaśānti* and *lokaśāra* (social end) as the standards of *dharma*. (See *Ethics of the Hindus*, p. 324.) The ethical implications of such sharp definitions are plain enough, since behind the social thought lies the solid bed-rock of morality, without which society itself would come to a stand-still. "An attempt is thus made not only to go beyond the limitations of communal and regional morality, but also to provide for moral progress besides moral order." The above remark by Dr. Srinivas (*Ethics of the Hindus*, p. 324) is true scarcely as well, even when purely ethical considerations are left out. Apart from definitions which are very useful in themselves, it is the *Mahābhāṣya*, that seems to be in this respect the source of the content of all social speculation of idealistic character.

<sup>3</sup> *Mahābhāṣya* Parva, 348, 351.

people become progressive, free from difficulties and possessed of ultimate salvation."<sup>1</sup>

It agrees fully with the Vaiśeṣika definition that dharma is 'atthyādaya-niṣkāreya-siddhiḥ,'—the realisation of both worldly and other-worldly goods."<sup>2</sup> Somadeva Śāstrī has also defined dharma "as that which promotes the greatest good of society,"<sup>3</sup> with an unrestricted application. Its social expressions are sympathy, doing good and non-injury to all."<sup>4</sup> Professor Radhakrishnan says, "Dharma or righteousness is the stable condition which gives man perfect satisfaction. It helps him to gain salvation as well as happiness..... Dharma is relative and dependent on the condition of society. It has always a social implication. It is the bond which keeps society together. Dharma develops the solidarity of society. It aims at the welfare of all creation."<sup>5</sup>

Further idealisation led the Epic to conclude that "dharma is the highest and the only good."<sup>6</sup> Its character comprises all its many aspects, since after all "dharma is one."<sup>7</sup> It is also "constant."<sup>8</sup> Therefore all dharmas lead to "one state,"<sup>9</sup> and any one dharma may lead to the eternal dharma.<sup>10</sup> This is like the Stoic doctrine of virtues, one virtue leading to others, and all are known when one is known. The unity of dharma, thus enunciated, connected ethics with politics and sociology in the Hindu philosophic thought of the time, and allowed

<sup>1</sup> *Rājadharmasūtra* Parva, 100.

<sup>2</sup> *Vaiśeṣika Sūtra*, I, 1, 34; *Hinderson*, p. 52.

<sup>3</sup> *Nīlakanthasūtra*, I, p. 31. Also see *Pol.* Ad. in *Ann. Ind.* p. 373.

<sup>4</sup> *Mokṣadharmasūtra* Parva, 120; *Aranyakas* Parva, 162.

<sup>5</sup> *Ibid.* Part I, pp. 305-6.

<sup>6</sup> *Pratyāgata* Parva, 82; *Aranyakas* Parva, 160, 161.

<sup>7</sup> *Aranyakas* Parva, 162.

<sup>8</sup> *Mokṣadharmasūtra* Parva, p. 120.

<sup>9</sup> *Ibid.* 164.

<sup>10</sup> *Upan.* Parva, 248.

religion to operate in spheres, where it is said to be out of place, unfortunately according to the tendencies of the modern day, influenced probably by the new born scientific spirit. In showing the nature of dharma the Epic adds that "truth is naturally unqualified," that is it is abstract; "it becomes dharma when it is qualified" in application.<sup>1</sup> "Law (proper, or political law) is that which spreads dharma."<sup>2</sup> For, after all "the whole world is established on dharma,"<sup>3</sup> in fact "the substance of dharma is sharper than the edge of the razor and heavier than the mountains—there is no doubt about it."<sup>4</sup>

### Kinds, Proofs and Ways

The necessary ethical implications of law being in a number of views such as kinds, proofs and ways of dharma. Apparently these have nothing to do with law proper, or political law, but their relation to social justice and duty is evident and clear. They come along with the instruments of interpretation used in dealing with legal concepts and help the understanding of the moral side and import of law.

Dharma is said to be of three kinds—vedic (according to the Vedas), smṛtiśa (according to the law-books) and customary,<sup>5</sup>—being roughly the forms in which it was generally accepted by the legislators. Its proofs are—the Vedas, observation, and practice.<sup>6</sup> It is difficult to say what is exactly meant here. The ways to dharma are

<sup>1</sup> *Amṛta*, p. 32.

<sup>2</sup> *Śrīmadbhāṣya Parva*, p. 121, Nīlakaṇṭha places dharma before law (II. 42)—"Yyavakṣaṇaḥ saṁvatsa dharmamāśrīvāṇyate."

<sup>3</sup> *Upadharma Parva* 140.

<sup>4</sup> *Śrīmadbhāṣya Parva*, 284.

<sup>5</sup> *Bṛhadāraṇyaka* I. 1; *Taittīrīya* I. 1-3; *Aśvaśāstra Parva*, 141.

<sup>6</sup> *Ibid* 142; *Māra Saṁhita*, II. 17.

eight according to the Epic, namely, *yajña*, study, charity, *tapas*, truth, forgiveness, self-control, uncovetousness.<sup>1</sup> This compares favourably with the eightfold path of Buddhism. It is called the Aryan eightfold path discovered by the Tathagata and is the first sermon on setting in motion the wheel of law—right belief, right speech, right aspiration, right conduct, right mode of livelihood, right effort, right mindedness and right rapture.<sup>2</sup> It is to be noted that there is a gulf of difference between the orthodox ethics of the Epic and the heterodox psychology of the Buddha. He "did not declare open war against the ceremonialism of the time, but tried to infuse moral significance into its forms and thus undermine it."<sup>3</sup> No room is allowed by him to *yajña*, or *tapas*, so important in the Hindu codes of law. Manu has ten signs of *dharma*—contentment, forgiveness, restraint, uncovetousness, purity, self-control, intelligence, self-knowledge, truth and calmness.<sup>4</sup> Manu seems to have added two items more than the Epic. The *Mitākhaṛṇ* gives six topics of *dharma*,—the *dharma* of *varṇa* (caste), of *āśrama* (stages of life) of *varṇa-āśrama* (orders of castes), *guṇa-dharma* (of quality), *smṛti-dharma* (of custom) and *siddhanta-dharma* (general).<sup>5</sup>

The following parabolic teaching is not without its lesson in illustrating the many connections and ramifications of *dharma*. Such stories in the Epic are intended to carry home the message, which in philosophic language would perhaps be too dry and uninteresting. The importance of *dharma* in everyday practical life cannot be better stressed for the purpose of instilling righteousness and inculcating one of the deepest and most useful truths

<sup>1</sup> *Trigunika Parva* 2

<sup>2</sup> *Ind. Phil.* p. 455

<sup>3</sup> *Ibid.* p. 452.

<sup>4</sup> *Manu Smṛiti*, VI 92

<sup>5</sup> *Mitākhaṛṇ*, pp. 2, 4 S. G. Tatyashvili's Ed.

of moral and social philosophy. Dharma, character, truth, good work, strength, and prosperity are figured here, each speaking out its own mind—

(a) Dharma—"I am dharma—I live where character is found."

(b) Truth—"I am truth—I have to accompany dharma at all times."

(c) Good work—"I am good work—I stay wherever truth stays."

(d) Strength—"I am strength—I too have to live with good work."

(e) Prosperity—"I am prosperity—I have to follow strength."<sup>1</sup>

### Dharma and Institutions

Dharma, as "the operative criticism of all institutions," runs all through in an under-current beneath Hindu political and social philosophy. It was the great theme in the back-ground of all their social and political thought, never lost to view or allowed to be compromised amidst the difficulties of practical problems and the demands of changing times. From the Vedas down to the Śūtra-Nīti, it appears again and again, reminding men of action and men of thought, of the truth that underlies and upholds the complex, expansive and diversified structure of society. They know "all is gone when dharma is gone" and in the absence of standards and sanctions it would be simply prelays (chance) all around.<sup>2</sup> References backwards and forwards to dharma, rationally thought out and at times partially realised, meant for them that process of evaluation, which

<sup>1</sup> Raghunandanrao Parva, 124.

<sup>2</sup> See Nīti Śāstra, II, 54.

like the oscillations of the compass showed the right direction and guided society towards the highest ideals. When Yudhishtira raised the difficult and searching question—"How can the service of dharma and the protection of the state be possible for a man", (a king), at one and the same time?—As "the two are (evidently) contradictory"<sup>1</sup>—he was in fact judging the state on the criterion of righteousness by bringing the two concepts together. If the great Epic has "an inner chronology" of its own, to use Jhering's well-known phrase, this point ushers in the whole social, political and moral philosophy of the Śānti Parva and the following didactic portions. A critical estimate of the state in relation to and in the light of dharma was wanted by the monarch, who was reputed for unflinching truthfulness and never did wrong.

The application of the standard of dharma (righteousness) to individuals, society and the state was a natural procedure. Their evaluation exhibited the object of their existence and their intrinsic worth increased or decreased with the assimilation and embodiment of dharma in them. For philosophical purposes a judgment of value was passed on them from the supreme standard of dharma. This ruling conception supplied permanence and significance to all institutions and orientated them towards perfection. "All that raises human nature to a higher pitch, all that enables it to reach out to a fuller life, all that, which produces harmony of work between the dualism of human nature yoking the horse of egoism to the car of altruism", is dharma.<sup>2</sup> "Dharma can establish heaven" on earth.<sup>3</sup> The question is how this can be done and hence the whole scale, from the individual to the

<sup>1</sup> Rajadharmaśāstra Parva, IV.

<sup>2</sup> Bhishma, p. 72.

<sup>3</sup> Id. Parva, 42.

state, needs to be attuned to dharma. And the eternal and other-worldly aim and object of every individual man must, in a directer or an indirecter fashion, determine the aim and object of every group into which he enters.<sup>1</sup>

To start with the individual, for he is the atomic unit of measurement, it is evident that social good cannot be possible without the proper discharge of personal duties. On the basis of the foregoing analysis it is proved that this principle is *Sva-dharma*—one's own duty—and is the minimum demand by society. The state enforced it in favour of society,<sup>2</sup> since "man secures happiness in both the worlds (here and hereafter) by doing his own duty."<sup>3</sup> Man does take up good, middling and bad works through the force of time."<sup>4</sup> But "he who gives up his own duty and takes up another's turns his whole work into *adharma*"<sup>5</sup> (undutifulness); yet "through the power of political science (*Kāṭhā-dharma*) all can be well-ordered."<sup>6</sup> *Sva-dharma* must also be inter-connected with other duties—everybody's duty being related to other peoples' duties within the social whole. "Dharma is nursed by the Brāhmana's work" and "the world gains *dharma* through the help of the Śūdra, Vaiśya and Kshatriya. If these *Vargas* (castes) do not adopt peace (orderliness) they can never have the grace of God."<sup>7</sup>

Speaking of people in general, it was pronounced that "men advance or deteriorate—this is the law of the world."<sup>8</sup> The process of decay has to be arrested in order to ensure progress and such advancement depends on righteousness, for "dharma is victory"<sup>9</sup> in its widest

<sup>1</sup> See Pol. Theo. of Ind. Age, p. 3.

<sup>2</sup> See above p. 327.

<sup>3</sup> *Bṛhadaranyaka Upaniṣad*, 4/2.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*, 5/2.

<sup>6</sup> *Ibid.*, 4/2.

<sup>7</sup> *Ibid.*, 4/2-4/3.

<sup>8</sup> *Maitheya Upaniṣad*, 1/2.

<sup>9</sup> *Aranyakas Upaniṣad*, 1/4; *Shukla Upaniṣad*, 11. of *Aranya Śāstra*.

denotation. "Through dharma's power people become pure-hearted and free from sin."<sup>1</sup> "They can according to their actions reach light and truth, that is heaven, or darkness and untruth, that is hell."<sup>2</sup> "Through good and bad works are seen evolution and development rise and fall."<sup>3</sup> It is only their own choice, for every one has great possibilities. "Within the human body there are both annihilation and immortality,"<sup>4</sup> as well as "virtue and sin, though they are opposed to each other."<sup>5</sup> This finite-infinite nature of man proves that he is designed for the very highest stature and end, and there is the constant assurance that "no dharma goes in vain."<sup>6</sup> On the contrary "from dharma is established heaven" on earth.<sup>7</sup> For such a great assumption the problem naturally turned to be the reconciliation of dharma with the social conditions and its embodiment in the imperfect structure of social life. It practically included the whole of society together with all other moral implications.

The social orders are meant to help this process of spiritual culture going under the denomination and domination of dharma and they set themselves said to be permeated with this noble purpose. "God is at the steps of the (four) āśramas" (stages of life).<sup>8</sup> Verily man can see Him as he enters in. "By climbing its stairs man can attain the region of the gods; whether a student, a householder, a dweller of the forest, an ascetic, one can reach the very highest stage by living according to āśtras,"<sup>9</sup> (i.e. dharma). Indeed "all the four āśramas are established for the preservation of dharma"<sup>10</sup> and "the

<sup>1</sup> Ibid.      <sup>2</sup> Mokshaśrama Parva, 361.      <sup>3</sup> Udyoga Parva, 48.

<sup>4</sup> Mokshaśrama Parva, 377.      <sup>5</sup> Ibid., 361.

<sup>6</sup> Ibid., 363.      <sup>7</sup> Ibid. Parva, 48.

<sup>8</sup> Mokshaśrama Parva, 343.      <sup>9</sup> Ibid.      <sup>10</sup> Ibid., 391.



frail of life in the āśrama is salvation itself."<sup>1</sup> These stages of life are instrumental to the highest human growth—step after step towards the full realisation of dharma, which "is the chief means to salvation."<sup>2</sup> The state, as the centre of society, sees that everything is all-right with these social orders.

The greatest of all institutions, the state, is not an exception to the criticism and rule of dharma. Anarchy was imagined to be the condition, when none cared for dharma and hence "dharma disappeared completely."<sup>3</sup> In case of good and effective government "dharma spreads everywhere."<sup>4</sup> This intimate connection between good government and dharma runs throughout Hindu political thought. It was categorically expressed by saying that "the king and dharma are reciprocally protective"<sup>5</sup> and "it is dharma...which preserves the kingdom"<sup>6</sup> It is emphasised in secular writing in the passages below—

"The king is created for protecting dharma..... (which) takes the shelter of kings. The king is made like the very self of dharma. To advance dharma to the best of ability is the duty of the king. When dharma is increased the people prosper and when dharma disappears the people also go down. It is never good to let dharma down. Evils are removed through the power of dharma :.....(for) dharma was created for the birth and growth of beings. Therefore for the good of the people the king ought to protect dharma. He is truly king in whom dharma is ever present."<sup>7</sup> In other words "the king is the cause of the prosperity and progress of this world."<sup>8</sup>

<sup>1</sup> *Ibid.*, 188.

<sup>2</sup> *Śaṅkharāṣṭakam* Para. 50

<sup>3</sup> *Ibid.* Para. 50

<sup>4</sup> *Śaṅkharāṣṭakam* Para. 50

<sup>5</sup> *Śaṅkharāṣṭakam* Para. 141.

<sup>6</sup> *Ibid.*, 60.

<sup>7</sup> *Śaṅkharāṣṭakam* Para. 50

<sup>8</sup> *Sūta Gītā*, p. 3

## Politics and Time

This is nothing but a judgment on the state represented by the king. The state stood charged with the mission to realise the idea of Law,<sup>1</sup> otherwise there would be a *pralaya* (deluge) when *dharma* (law) is violated.<sup>2</sup> But it does not end here, stretching, as it does, beyond the immediate concerns of government and giving colour and character to time itself. Even the ages are spoken of as politically conditioned from the point of view of general culture. Politics is the barometer of national culture indicating its true level and pressure. How true it is even to-day, in the East as well as in the West, of democracy and imperialism, of peace and war. The ancients perhaps knew this better than the way in which it is understood in the modern time. The Epic adds—

"If the king is misled, the sacred fire, the Vedas, the sacrificial rites, and the four social orders and the four vargas would disappear and when the king goes wrong, elephants, horses, camels, cows, mules and goats all become weak. The king being unrighteous, caste-mixture, deformed, dumb and imbecile men come into being" . . . "and so do untimely winter and untimely summer, excessive rain, want of rain and many other dangers."<sup>3</sup>

"In the absence of the king all righteousness is lost, and at the loss of righteousness, this world also meets with destruction. The king holds the key to the worldly and the spiritual advancement of his own self as also of his subjects."<sup>4</sup>

Hence it is that the king was called "the maker of the age," or "the cause of the time"<sup>5</sup>, illustrating the close

<sup>1</sup> *Till Pol. Theo. of Mid. Age*, p. 14.    <sup>2</sup> *Shi. Sam.*, p. 33.

<sup>3</sup> *Rajadharma-samuccaya Parva*, 20-21.    <sup>4</sup> *Nis. Sam.*, p. 24.

<sup>5</sup> *Shri. Gyanprakash*, IV, p. 121.

relation between politics and culture. This idea occurs in the *Ēpic* and the *Mānu Smṛiti* as well as in the *Śukra-Niti*. The *Mahābhārata* designates the king "the very likeness of the Yuga," and *Mānu* the Yuga itself. The prosperity and culture of the particular time is determined by the king's character—

"Through the behaviour of kings, the four yugas—*Satya*, *Tretā*, *Dvāpara* and *Kālī*—take their birth. The king is the very likeness of the yuga."<sup>1</sup>

"The *Kṛta*, *Tretā*, *Dvāpara* and *Kālī* ages are merely the efforts of the king, who is therefore called yuga or age".<sup>2</sup>

"The prince is the cause of time and of good and evil practices. It is the king who is the cause of the origin of the good and evil of the world". "The king is the master of the age as the promulgator of duties and sins".<sup>3</sup>

### Yuga Dharma<sup>4</sup> and its Content

The above is a general statement of the king's position, so far as the cyclic periods are concerned. His agency sets them in motion or gives birth to them. It is a

<sup>1</sup> *Śukra-smṛiti* (Śukra Yama, 91. 45).

<sup>2</sup> *Mānu Smṛiti*, IX, 304.

<sup>3</sup> *Śukra Niti*, pp. 11, 134, 220.

<sup>4</sup> Mr. Gervase Das has defined these notions of time and shown all their special characteristics. "Yugas and Kalpas are periods of time into which the past and future history of the universe is divided. A Yuga may be generally defined as a period of time in which some one definite function or form of individual or social life is worked out. — These Yugas may also be understood to be epochs in which human and cosmic evolutions run, and apply as well to the whole world as to countries, civilisations, individuals and so forth." The prevailing deities are *Indra*, *Kṛti* and *Vishnu* respectively of the first three ages, the last being none. (*Hinduism and India*, by Gervase Das pp. 41, 63). The theory of the four ages of the world is found among the ancient Egyptians, Jews,

figurative way of practically measuring the content,—the goodness or the badness,—of ages, which are politically caused to a great extent. The political conditions invariably disclose how far righteousness has been operating in society.

Again the four cycles or ages mentioned above have their own standards, and cyclic righteousness varies accordingly. It is clear that the quality and the quantity of righteousness determined the character of the ages. In the opinion of the Epic endorsed by Manu—

"The first yuga is Satya ; in this yuga dharma .....has four legs" (or parts, i. e., stands full.) "In the second or the Treta yuga dharma loses one leg", (i. e., is only three-fourths.) "In the Dvāpara yuga dharma loses two legs" (or is only half.) "Then in the Kali yuga dharma has only one leg", (i. e., is only one-fourth.)"

The political exposition of cyclic dharma (righteousness) gives the following result. It is nothing but a typical

Profraser, Greek and Roman. "Laudable, the bold profraser of the hypothesis, was born in 19 B. C., which is several centuries later than the period when the Hindus had developed the doctrine. (Hindu Social Evolution by Dr. Radhakrishnan, *Veda Magazine*, Sept., 1926, p. 152). According to Engels, there were the Golden, the Silver, the Bronze, and the Iron ages of man corresponding to the four ages. They are parallel and similar to Hindu ideas on the subject. (A. Torgler, *Greek Historical Thought*, pp. 141 ff.) The general defect of the doctrine is that "no separate cycles or parabolas have been recognized for the various races. This is manifestly wrong. Even now we have various peoples living in all the stages of evolution. There is no syncretism in progress and its degree is the case of all men. It is really strange that the Hindu philosopher recognizing the co-existence of Barbarians, Medians etc. with the civilized Aryans, could postulate all-encompassing and uniform stages of civilization throughout the world. The whole of mankind could not be in the Iron or in the Golden age". (*Veda Magazine*, Sept. 1926, p. 152). The explanation of this anomaly is to be found in the last section of the chapter.

application to politics of the principles noted already, all the points of comparison being paralleled—

"You need not be doubtful as to whether the king is the cause of time or time the cause of the king. The king is certainly the cause of time. For when he governs well and fully according to *dandaniti* (political science), it is *Satya Yuga*. Not even a bit of unrighteousness can come in at this time and dharma is full and complete everywhere. When the king governs with three portions of the science of politics unrighteousness sets one foot in. This is the *Tretā yuga*. When quite half of political ethics is left out and the king governs only by the other half, it is called the *Dvāpara yuga*. Unrighteousness sets two feet in (at this time). Political ethics being given up altogether, the king may trouble the subjects in many ways, then it is the *Kali yuga*. In this yuga the practice of dharma disappears altogether".<sup>1</sup>

The cyclic order is an old conception of the Hindus and time is divided into four ages from the creation of the world to the final destruction of it. Dharma is its substratum, since the loss of dharma means the end of time in its cosmic manifestation. It is a different question with eternal time, which is sometimes identified with God.<sup>2</sup> Its relation to politics and society is a logical nexus, in as

<sup>1</sup> *Bhagavadgītā* Parva, p. 70—The practice of dharma has also been shown according to different ages. "Owing to the deterioration of the ages differences in the practice of dharma have been indicated in the four ages. Tapas in *Satya*, knowledge in *Tretā*, sacrifice in *Dvāpara*, and charity in *Kali* are considered to be the highest dharma", i. e., the greatest and the most sacred law. (*Bhagavadgītā* Parva, 33).

<sup>2</sup> "In the *Ātharva Veda* and in the *Mahābhārata*... time appears in the light of the creator" (*Religious Philosophy*, p. 163). "Time is the shape of the yugas continually both the universe within itself. This time is the very Brahmā, God, to those who have known God" (*Bhagavadgītā* Parva, 32; also *Bhagavadgītā* Parva, III, 18, p. 164).

such as the expression of dharma is in social and political forms, and within civil society itself. It is also applied to the individual,<sup>1</sup> and equally illustrates its connection with personal conduct and character. Its natural progress is from simple units to more and more complex manifestations.

From the stand-point of the king, it is stated that different rewards await him in after-life in proportion to the success and value of his government. Full heavenly bliss is for the king who gives rise to the Satya yuga,<sup>2</sup> and half, three quarters and dire hell for bringing about the other three yugas respectively. This is because the king is considered to be in short "the root of dharma (righteousness)".<sup>3</sup> Further God Himself is said to have different colours, (signifying qualities), in different yugas in accordance with the degrees of righteousness contained in them. This is a disguised suggestion of the theory of values in relation to the actions of man. Says the Epic—

"First is the Satya yuga .....Nārāyaṇa (God) is white (as it). In the Tretā yuga Nārāyaṇa becomes red...in Dvāpara yuga Nārāyaṇa is yellow and in the darkness-filled Kali yuga Nārāyaṇa becomes black". Also "I (Nārāyaṇa) become white in Satya yuga, yellow in Tretā, red in Dvāpara and black in Kali".<sup>4</sup>

These conceptions represent a "colour symbolism", which, according to Dr. Kramrich, "has partly descriptive and partly suggestive significance".<sup>5</sup> The white colour is of *asthika* type, the yellow and red of *rajastika*, and the *tamastika* type is of black colour".<sup>6</sup> The theory of the

<sup>1</sup> See the next section.

<sup>2</sup> Utioga Parva, 180, Bhagavad-Gītā-Utioga Parva, 62.

<sup>3</sup> Tringyaka Parva, 4; Bhagavad-Gītā-Utioga Parva, 58.

<sup>4</sup> Yana Parva, 148, 155.

<sup>5</sup> *Yadoga Bharmottamach*, p. 28.

<sup>6</sup> *Sāstra-Sūtra*, p. 156, *Sāpārāṇa*, 145-6.

three *gāṇas* (or values) underlying the universe is here connected with the idea of the proportionate representation of *dharma* in the different ages, indicating their nature and content.

*Dharma* as culture thus stands closely and necessarily related to politics, "which keeps the whole world in order just as reins do the horses".<sup>1</sup> The doctrine of *yuga-dharma* in its entirety imparts to the state the character of an institution for the advancement of culture. Hence the Hindu theory meets Aristotle's conception of the state, as the means to the furtherance of the highest good of man.<sup>2</sup> Its relation to *dapṛa* is for the purpose of correlation from this angle of vision; and thus both the doctrines are correlated. *Dapṛa* and *dharma* are the two poles of the state, 'the two faces of the political Janus, one looking to the failures, the other to the triumphs'.<sup>3</sup> If *dapṛa* is the authority of the state, *dharma* is its ideal. *Dapṛa* enforces duties, while *dharma* as duty is but the obverse of *dharma* as law. Therefore "the doctrine of duty is identical with that of law turned inside out".<sup>4</sup> Even property is designed for *dharma*,<sup>5</sup> and its relation to the state is not merely that of adjustment, for the state itself expresses the spirit of *dharma* as it exists at the time, infused with a diffusive purpose. In reality the state is conceived of as "a vale of soul-making" in the language of Keats, a training-ground for men, which in Hindu phraseology would be equal to a *dharma*-producing machinery and an "institution securing even the ultimate salvation of all".<sup>6</sup>

<sup>1</sup> *Rajadharmaśāstram* Para 43.

<sup>2</sup> *Pol. Theo. & Inst. of Hindus*, p. 311-312.

<sup>3</sup> *Ibid.* 293.

<sup>4</sup> *Ibid.* 311.

<sup>5</sup> See Essay on the Idea of Property.

<sup>6</sup> See Sayce, *Origin of the State*, p. 12.

Above politics and human laws, the Hindu sages saw another plane of cosmic perfectibility, authoritative and watchful, overseeing and upholding the world where man plays his many parts. Dharma expressing the total value of these parts, changes from time to time in conformity with their nature, and is the time-spirit in all such vicissitudes. But when utter confusion sets in undoing the very destiny of man, divine power moves to mend it or to end it. This is the conception of the Gītā in relation to cyclic righteousness, which may fitly be called the world-rhythm. God himself re-establishes righteousness after it has been overwhelmed and overthrown by man. It is said that incarnations of the deity are necessitated by such climates of human degradation and sin. The incarnate god of the Gītā says—

“Whenever righteousness is overthrown and unrighteousness prevails, then I create myself. To save the righteous and to destroy the wicked and thus to re-establish righteousness, I am born in every age. I am above birth and death and lord over all, yet I incarnate myself with the help of my own nature and through my own māyā.”<sup>1</sup>

If everything in the world contributes to the rhythm of the universe, on the postulates of Hindu thought, “the diapason closing full in man.”<sup>2</sup> the king and the commoner are both responsible and no action can go in vain, nor pass unaccounted. The inter-relations of the whole system are finely adjusted; these may consequently be disturbed by the agency of man. The totality of values realised in this system is ultimate dharma, preserved as the bosom of God. None can escape having troubled the equilibrium, which protects him as well

\* Gītā V. (A free translation is given here)

<sup>2</sup> Dryden, *Alexander's Feast*.



as others, whether he is a ruler or a slave, for it is after all a concern of the creator, whose self-expression is at the root of creation. The spirit of God moves in the system of the animate and the inanimate nature, of which the king and the individual man are the political and moral poles for building up the society of conscious beings stamped with the nature of the divine.

## The Individual and the Four Ages

The doctrine of the four ages is applied to the individual illustrating how the elements of these ages are constantly evolved in the lives of men and are represented qualitatively in all human actions. This is possible on the basis of an important text in the *Aitareya Brâhmana* which runs as—

“*Kalir ityâno bhavati sañjñâkṛte Dvâpara.*

*Uttakṣhanâ strotâ bhavati kṛtâh sampâdyate charap.*”<sup>1</sup>

Proportionate presence of dharma being the very core of the different ages, the evolution of dharma itself is implied in these lines, in the personal lives of all, as ultimately affecting the whole world process. Swami Vivekananda in his endeavour to infuse spirit into the nation drew attention to this verse.<sup>2</sup> His object was to rouse the people to spiritual activity. His own comment is given below—

“For the foolish the Kali era is constant; his era comes from out-side. He who is on the path to freedom has nothing to do with Dvâpara. Tretâ and Kali, for he begins to build for himself his own era, the Satya. He, who lies down lazily, has the Kali age attached to him. He who wakes and sits up has

<sup>1</sup> *Aitareya III.*

<sup>2</sup> *From Vivekananda's Works, quoted by the Bengalee of March 1906*

Dvipada. He who has stood erect has Treta. And he who starts for the journey of emancipation creates the Satya age as he goes on."<sup>1</sup>

It is to be noticed that the last five lines of Vivekananda's comment are the literal translation of the Sanskrit original under notice. Kuth's translation in the Harvard Oriental Series also yields the same meaning though verbally a little different,<sup>2</sup> but without the positive spiritual turn given to it by the word "emancipation." Plainly the implication is that it is man's creative activity, in private life as much as in public life, (which are again intimately connected together at last), that determines the character of his time. This is as true of politics as of society in general, where individuals have to act and in most cases take the lead. The *Aitareya Brahmana* has further these explanatory passages for the purpose of elucidating its own meaning—

"The future of him who sitteth also sitteth,  
But that of him, who standeth, standeth erect,  
That of him, who reclineth, lieth down,  
The future of him, that moveth, shall move indeed."<sup>3</sup>

Reading the two extracts together and joining up their imports, there remains no doubt as to the importance of ethical activity on the part of the individual in respect of the civilisation of the time. It is like the power of points in an electrical medium and the individuals, as such spiritual points in social life, can exercise simultaneously great and potent influence for their own good and that of society in general. The field is unlimited before everybody and the journey is endless as the sages have declared, for progress is an infinite

<sup>1</sup> Ibid.

<sup>2</sup> Harvard Oriental Series, Vol. 26, p. 303.

<sup>3</sup> Ibid.

advance towards the infinitely receding goal of infinite perfection.<sup>1</sup>

The position of the king, as the individual head of the state and the ruler of his age, has already been dealt with on the preceding pages,<sup>2</sup> and that of the private individual is seen to be no less important. Their reciprocity is set forth clearly in the statement that "the world suffers for the fault of the king as much as the king suffers for the fault of the world."<sup>3</sup> If society and Dharma (i.e., culture) are to be improved, the individual must be in every case the centre of moral idealism and also dynamism, whether he is the king or the subject. The *Ātarcyā Brāhmana* points out this dynamical personality for the necessary regenerating activities, for guarding against the decay of civilisation.<sup>4</sup>

What Schweitzer means by "the ethical element"<sup>5</sup> is the dharma of the Hindu sacred books, which again is the very kernel of the golden age according to the ancients of both the East and the West. This determining factor has been thrown upon personal initiative and responsibility on the basis of sound psychological analysis and the tested experience of the race. It is very strikingly illustrated in the case of all great men, who left their marks on the world. Emerson truly held, God lets out

<sup>1</sup> Cf. *The New State*, p. 21. Cf. Rabindranath Tagore's saying—"Perfection is unattainable, but the spirit of perfection is our salvation" (*Lecture at San Francisco, Dec. 1909*). <sup>2</sup> See above, p. 347.

<sup>3</sup> *Udāra Purāṇa*, 120; Cf. *Ramayana*, *Yōgyakanda*, 100, 8. See Ch. II, the Idea of Ideality.

<sup>4</sup> Cf. Schweitzer, *Decay and Restoration of Civilization*, p. 75—"The individual personality must be looked to as the agent in a new movement... Civilization can only revive when there shall come into being in individuals a new tone of mind [independent of the one prevalent among the crowd and even in opposition to it]—a tone of mind which will gradually win influence over the collective one and in the end determine its character. It is only an ethical element... and the ethical comes into existence only in individuals."  
<sup>5</sup> *Ibid.*

a great man when He desires to move the world.<sup>1</sup> Here too the personal element is emphasised in order to characterise the age and the society of that age. The ultimate problem of the progress of civilisation indicated by the proportionate presence of righteousness, or ethical quality evolved in individuals and in the nature of leadership, turns upon the fact of the contribution made by the component parts. This in the end resolves itself into the character of persons going to form the whole.

The view taken of the problem may look unnecessarily religious, bringing in something which is not recognised strictly by political and social science. But it should be remembered in terms of modern Western thought that "the stability of every society depends upon a harmonious inter-relationship of the profoundest ideas of all its members, and upon this depends the coherence of life and thought. Such coherence is not due to arbitrary adjustment or artificial compromise, but it can be consciously striven for, by seeking a stand-point or attitude that shall answer religious and other evidence. This would effect a harmony without the exclusion of those features that at present preclude harmony. It would involve a re-expression of the most fundamental ideas in accordance with the best knowledge and this would require a development of thought beyond the present state."<sup>2</sup> The transcendence envisaged is none other than religion itself or at least the totality of its effects on human nature.

The conception of Dharma, whether regarded subjectively or objectively, is a fundamental element in the life of the individual and of the community. It is true that "from the subjective stand-point it is considered

<sup>1</sup> Representative Men, p. 52.

<sup>2</sup> Stanley Cook: *The Foundation of Religion* p. 15.

not merely as a function of the mind (Sāṃkhya school), but also as a determination of the substantive self (Nyāya school), resulting from the purity of intention: from the objective stand-point it is considered not merely as external Śāstrika prescription (Bhāṭṭa school), but also as *aparṇa* (something new) which is the essence of duty as an accomplished verity of the moral order (Prabhākara school).<sup>1</sup> Nothing can take away its philosophical value in all Hindu systems of speculation. On the other hand its progressive realisation is avowed to be the object of the moral will conceived as a rational good for all. "And goodness prevails only through the friction of impulse to harmony accomplished in the time-process.... This effort is the creator of gods and men, of beautiful fictions and what is noble in fact, of law and morals, of science and art, perhaps what is beautiful in nature, certainly of the significance of that beauty to us. Its operation is intelligent and purposive and all-embracing."<sup>2</sup> The ideal in order to be effective must be progressive, dynamic and creative, its reality being step by step, value after value, raised to the very ultimate.

The impulse of dharma is essentially cultural, as it is understood in Hindu philosophy, aiming to unify the individual and society, man and the world. Legal philosophy attains its high consecration in the realisation of this unity on the basis of culture, for it is admitted everywhere that the requirements of law are the requirements of culture.<sup>3</sup> The law must be so constituted that it may in the greatest degree serve cultural ends and

<sup>1</sup> *Hindu Ethics of the Hindus*, p. 285.

<sup>2</sup> *Hickhouse, Natural Good*, p. 183.—This definition of the good agrees generally with that of dharma in all aspects, social, moral and metaphysical (see *Sūtra Śāstra on the Basis of Law*).

<sup>3</sup> *Philosophy of Law*, p. 52.

achieve cultural objects. It must aid in developing the seeds of culture and in repressing the elements that are contrary to it. This is the inner necessity of law in all ages and climes and without it law will be empty of content. An illustrative passage is furnished from an Western authority, which indicates kindred elements of legal thought. Kohler says "Law aims at so ordering matters that periods opposed to culture are shortened as much as possible, that antagonistic tendencies are weakened and that thus the normal condition of progress is more quickly established."<sup>1</sup> Dharma is meant to do all these and to represent the totality of cultural values in Hindu thought, as well as the very spirit of the time. Its implications are necessarily metaphysical and "to expound the deeper significance of this creation of culture is the task of metaphysical science."<sup>2</sup> Tagore having designated dharma "a creative ideal", has concluded that "civilisation has to express man's dharma and not merely his cleverness, power and possession."<sup>3</sup>

<sup>1</sup> Ibid.<sup>2</sup> Ibid.<sup>3</sup> *The Religion of Man*, pp. 160, 162.

## APPENDIX

### NOTE 1

#### *"Matya-Nyaya" (Logic of the Fish)*

This pregnant phrase, short and pithy as it is, carries one of the most important political concepts of the Hindus and forms the back-ground and the presupposition of a number of theories. It assumes an analysis of human character in general, namely that it is obviously selfish, but admits the possibility of improvement. That is to say it ought to be altruistic and it may be so. Taking for granted what its import is, the phrase rises to the regulative idea of social solidarity through social and spiritual training. Its presence is constant in the social process in a suppressed form, a reversion to it being always possible under conditions favourable to it, but it exists at the same time together with its opposite, which is the altruistic tendency. It is thus the egoistic side of human nature generalised as a social fact. A strain of pessimism is marked out by it, in Hindu social and political thought, like that of Hobbes and Spinoza. Its logical contrary is Natural Law in the Epic sense, or is that of Locke, which is the cementing factor to hold society together, while plain logic, universal war and natural right represent disruptive forces.

The source of this phrase is not exactly known as yet. But an effort has been made here to trace it out backwards as far as possible. In its earliest appearance it has not the shape, nor the significance, given to it by politics. Only a vague social importance and meaning is found to be attached to it. The following quotations will illustrate the point.

# Vedic Literature

1. The Rig Veda supplies the most suggestive germ—"Eager for spoil.....fain to win wealth in the manner of fishes urged by hunger."<sup>1</sup> Although the technical use of the phrase is not apparent in the Vedic time, it is clear that the conception was being formed from the close observation of piscine nature.

2. The Śatapatha Brāhmaṇa does not use the famous phrase itself, but gives the rudiments of the same idea—"whenever there is draught, then the stronger order the weaker, for the waters are the law"<sup>2</sup> (āpo dharmah—condition of existence). Like its Vedic use, it is not yet specific and did not pass into a condensed form. Its abstract shape is in the making here.

# Epic and Puranic Literature

3. The Rāmāyaṇa shows definitely the political application of the idea—"In a country, where there is no king, nobody possesses anything which is his own. Like the fish people are always devouring one another."<sup>3</sup> It is clearly narrowed down here to signify anarchy in a kingless condition, which is really the starting-point of the theory.

4. The Mahābhārata has mentioned it more than once. "If there were no king on earth for wielding the sceptre of punishment, the strong would then have preyed on the weak *after the manner of fishes in water.*"<sup>4</sup> The Epic has utilised it the most and connected it with its theory of the state.

<sup>1</sup> Rig Veda, VII, 10, Vol. II. Griffith's Trans., p. 17.

<sup>2</sup> XI, 1, 4-24, 25-28, 32-34, p. 18.

<sup>3</sup> Aranya Kapala, Ch. 66, v. 21.

<sup>4</sup> Śānti Parva, 67 & 16.



5. The *Ādi Purāṇa*, a Jaina work, has the phrase in connection with punishment. "The world would present the condition of *saṃgrāmyā* (the logic of the fish-bait for coercion)."<sup>1</sup> It is like the *Nṛsīṃhāyatanī* in this respect, which is also a Jaina book on politics.

6. *Māyā Purāṇa* appears to be influenced by the *Mahābhārata* and its distinctive doctrine of *danda* and sovereignty. "The child, the old, the sick, ascetics, women and widows would be preyed upon according to the logic of the fish," should *danda*, i.e. punishment, fail to operate.<sup>2</sup>

7. The *Yogavāishṭha Rāmāyaṇa* uses the phrase in connection with the nether world and has the direct Epic colour in it. "The region of *Pātāla* being now kingless was oppressed by the logic of the fish, that is the strong began to oppress the weak like the fish".<sup>3</sup> The description here is similar to that of the *Mahābhārata* and might have been copied from it.

8. "If the law should fail to protect the people, they would, following the principle of the logic of the fish, eat up the children, the old, the afflicted, the maimed, the pious and the women".<sup>4</sup> Here the *Vishvadharmottarāṇi* gives a most pointed description of anarchy and shows the supremacy of law by putting it in the place of the king.

## Legal Literature

9. The *Manu Smṛiti* seems to present the idea in an abridged and metaphysical form. "If the king did not unweariedly exercise the sceptre of punishment on those deserving to be chastised, the stronger would kill the

<sup>1</sup> *Ādi Purāṇa*, XVI, 2nd; *Theory of Govt. in Anc. Ind.* P. 318

<sup>2</sup> CCXXV, 2

<sup>3</sup> *Upaniṣad Purāṇa*, 32, P. 508

<sup>4</sup> *Vishvadharmottarāṇi* I. 51, 505; *Ind. Hist. Quarterly*, June, 1932, p. 242

weaker like fish in water",<sup>1</sup> or "like fish on the spit" as an alternative reading.<sup>2</sup> The use is fully political and technical.

10. In Vāṭsībhāṣa's Institute the proverbial nature of the phrase is evident and needs no comment. "By this time the Kāśhāla region (the world) became extremely sovereigntyless characterized by the ignoble logic of the fish."<sup>3</sup> The word logic, "nyāya", used with the adjective "ignoble" is significant.

11. Similarly Nārada in his law-book gives the idea—"If the king were remiss....the strong would eat up the weaker like fish on a spit."<sup>4</sup>

12. A conception parallel to the oft-quoted phrase the "logic of the fish", describing the state of nature before the organisation of society, is found in Raghunātha's *Laṅkā Nyaṣa Saṁgraha* (Popular Legal Maxims, 1800 A. D.)<sup>5</sup> It is termed "the logic of monsters" after the famous story in the *Mahābhārata*,<sup>6</sup> where two monsters, Supṛa and Upasupṛa, decided to determine their right over the nymph, Tilottamā, by the application of physical force. The result was a foregone conclusion, since both the claimants died fighting. This story is also referred to by Kāmandaka in his own political work.<sup>7</sup> But he has used both the conceptions of the fish and of the monster.

It is quite easy to determine the difference between the uses of the two proverbs. That the latter is an

<sup>1</sup> *Manu Smṛiti*, VII, 20.

<sup>2</sup> See Nārada below.

<sup>3</sup> *Pol. Theo. & Inst. of Hindia*, p. 195. Cf. *Manu's Garuda-Loka Mātā*, p. 29, *Laṅkā Nyaṣa Saṁgraha*, II, p. 37.

<sup>4</sup> *S. B. S. XXXIII*, p. 215. This reading is found also in *Manu*, VII, 20. (*Nyāyapāṭhaśāstra's* Ed.)

<sup>5</sup> *Laṅkā Nyaṣa Saṁgraha* (Popular Maxims) Jacob's *Laṅkā Nyaṣa Saṁgraha*, II, p. 37. *Pol. Theo. & Inst. of Hindia*, p. 195.

<sup>6</sup> *Edi Purāṇa*, p. 154.

<sup>7</sup> *Manu-Smṛi*, p. 125. Also see below.

limitation of the former is certain, the aim in both being the same, which is the irrational procedure of unsocial elements leading to the ruin of the whole. Col. Jacob has quoted Raghunātha's *Lakṣika Nyāya-saṅgraha* on the application of the two proverbs. "This *nyāya* is used, says Raghunātha, when the things in opposition are of equal strength, but when they are of unequal strength and the weaker go to the wall, the *matra-saṅgīya* is employed."<sup>1</sup>

### Political Literature

13. In the *Artha Śāstra*, it is to be noticed, the phrase has already passed into a proverb. "Because, if chastising is not exercised, it brings about the realisation of the proverb of the greater fish swallowing the smaller. In the absence of the chastising and the strong devour the weak."<sup>2</sup> Unlike the Epic, Kautilya did not base much of his theory on the conception. In fact he did not speculate on the theory of the state.

14. Kāmandaka is a comparatively later thinker familiar with all the phraseology of his predecessors. "In the absence of punishment the destructive logic of the fish acts through mutual animosities of the people leading to the disruption of the world."<sup>3</sup> As a follower of Kautilya there is nothing distinctive in Kāmandaka in this respect.

15. The *Nṛsīṅgīya* says that "unexercised *daṇḍa* produces *matiganyāya* (the logic of the fish) and the powerful eat up the weak" (which is *matiganyāya*).<sup>4</sup> The context is similar to that of the *Artha Parāna*. Two

<sup>1</sup> *Lakṣika-Nyāya-saṅgraha*, II, p. 90, see also *Pol. Theo. & Econ. of Hindus*, p. 186.

<sup>2</sup> *Artha-Śāstra*, pp. 23-24.

<sup>3</sup> *Nṛsīṅgīya*, II, 42.

<sup>4</sup> *Nṛsīṅgīya*, III, pp. 141-2.

ancient authorities. Garga and Guna, are cited, with extracts from their works containing the famous phrase but these are not extant now.<sup>1</sup>

16. In the *Yuktikalpataru*, Manu has been imitated verbatim, and the couplet under notice stands thus in translation—"If there were no *daḍa* in the world dividing the good from the bad, the stronger would have devoured the weaker like fish on the spit."<sup>2</sup> The second line occurs in Manu VII, 30, as an alternative reading.

### Classical Sanskrit

17. The *Kathā-sarit-sāgara* has made use of the phrase in its proverbial form and with its political meaning. The excerpt is Turner's translation—"There is no race in the world without a king; I do believe that the gods introduced the magical name (king) among men in their alarm, fearing that otherwise the strong would devour the weak, as great fishes eat the little."<sup>3</sup>

18. A masterly touch is seen when the well-known Indian materialistic philosophy is brought alongside of this famous phrase with consummate skill. "Let there not be the condition of the logic of the fish in case of disorder (recommended) by the followers of the Lokāyata School." This remark occurs in the *Jayamaṅgala Commentary* by Yaśodhara on Vātsyāyana's *Kama-Sūtra*<sup>4</sup>, but the phrase itself does not occur in the *sūtra*.

19. The application of the phrase to real history is found in Hemachandra's *Dvyāśraya Kāvya* (C. 1153 A. D.), which describes through illustrative grammatical forms, the rule of the Chālukya's in Gujrat. Mulraj the

<sup>1</sup> Ibid.

<sup>2</sup> *Yuktikalpataru*, p. 15.

<sup>3</sup> *Kathāsarit-sāgara*, 109, 42, p. 452. Turner's Trans. Vol. II, p. 260.

<sup>4</sup> P. 32. *Udhak C Pat's Ed.*, Calcutta.

founder of the kingdom is credited with these words—  
 “How can we protect with our arms those that are  
 according to the logic of the fish eating up one another  
 flying and attempting to fly.”<sup>1</sup>

20. Abhayatilaka, (C. 1256 A. D.), the commentator  
 of the Historical Poem by Hemachandra, explains the  
 phrase ‘the custom in the oceans’ in verse 28 of Canto  
 VIII like this—“The logic of the fish obtains in the  
 oceans as the strong eat up the weak.”<sup>2</sup>

21. Another historian, Rājasekhara, (C. 1348 A. D.) in  
 his essay on Vastupala in his Prabandha-Kosa has these  
 lines—“This country of Gujarat under the evil influence  
 of time, through the inequity and sin of bad adminis-  
 trators and in the absence of the master, was troubled  
 in the way of the logic of the fish, like the cow in the  
 hands of the Mlechchhas.”<sup>3</sup>

22. The Moharaja-Parikaya drama (C. 1330 A. D.) by  
 Vastupala, a minister of king Ajayadeva of Gujarat, has a  
 pointed reference to the phrase—“Has *matya-nyaya*  
 (the logic of the fish) arisen in my kingdom through the  
 carelessness of the ministers?”<sup>4</sup>

## Inscription

23. In the Charter of Dharmapala (C. 730 A. D.)—it is  
 really remarkable that the phrase was used in a document  
 of the type—“In order to escape from the logic of the  
 fish....the people made his father Gopala accept the

<sup>1</sup> Gupto IV, 24, p. 212, Vol. I (Bombay Sanskrit Series, Bombay, 1900).

<sup>2</sup> Ibid., p. 200, Vol. I.

<sup>3</sup> Ch. 24, p. 202 (Panch Gujarat Sahitya Series, No. 11, Bombay, 1933).

<sup>4</sup> Act III, p. 80 (Central Library Ed. Baroda, 1935).

sovereignty."<sup>1</sup> This shows once more the popular character of the phrase.

It is also worth noticing that such an important political work as the Śukra Niti does not at all allude to the logic of the fish to symbolise the state of nature. Nor do the Bhāgavata Purāṇa and the Viśṭha Purāṇa, although both of them trace the rise of kingship in their own way and deal with state-craft and the art of governance and social questions and problems. It may be due to their own traditional method of handling the subject. But nothing can be safely said on this point.

For Western parallels, see Hooker's Ecclesiastical Polity, Hobbes's Leviathan, Spinoza's Tractatus Theologico Politicus, Mill's Liberty.

## NOTE 2.

### *Election and Deposition—Traditional and Historical*

In the Vedic and the Epic ages instances of accepted and rejected nominations mark out the selective power in the hands of the people. In the Rāmāyaṇa Rāma's nomination was ratified "with a view to the real welfare of the kingdom",<sup>2</sup> while in the Mahābhārata as a reminiscence of the fact in the Ṛig Veda,<sup>3</sup> Devapi was rejected for his skin disease.<sup>4</sup> Paru was accepted after the people

<sup>1</sup> Epigraphia Indica, IV. 248 — "Matra-ayajit-samajikāśch paśyatiśar  
lakṣaṇaśch I amah gāhātaka."

<sup>2</sup> Anandāśa Kāṇḍa Ch. II. 20, also I. 11.

<sup>3</sup> II. 12.

<sup>4</sup> Udyoga Parva, 242, 21-25, Veda Ch. I, Mixed Origins of the State

were satisfied as to the choice,<sup>1</sup> Kuru was selected for his "knowledge of sacred law"<sup>2</sup>, Kshatriya and Vaisya were deposed.<sup>3</sup>

The political object of the election of kings is further explicit in the three historical cases of three different periods of Indian history. In the Girnar Inscription of 150 A. D. Rudradaman is said to be "elected king by all the castes for their protection".<sup>4</sup> The Khalimpur copper plate<sup>5</sup> states that "in order to escape from the condition of the *loka* of the *śak*,... Sri Gopala was made king by the people."<sup>6</sup> The Chinese traveller Yüan Chwang relates that Harshavardhan was raised to the throne in 405 A. D. by the people because "the people would trust him".<sup>7</sup> The elucidations in these cases are clear and pointed and leave no doubt that common good was in view throughout and that the fear of possible anarchy in the absence of a ruler, or the loss of popular rights in the case of a bad ruler, was in the back-ground as well.<sup>8</sup>

Historical deposition of a king is seen in the fate of Bhojadratha,<sup>9</sup> who was "crushed" because of being "pratiñā-dhṛbha", i. e., weak in promise.<sup>10</sup> Similarly Nagadatta "the impious" was deposed<sup>11</sup> for parricide.<sup>12</sup> These two instances prove that popular judgment was against the kings, their conduct having been condemned by the law of the country. Undoubtedly personal character formed the most important ground for election and rejection and deposition of kings. A rather peculiar remark of Oudieritas is that even

<sup>1</sup> *Ud. Parva* 58.

<sup>2</sup> *Ibid.*, 54.

<sup>3</sup> *Skandapurāṇa*, 1; *Śveti. Parva* 58, cf. H. Pöhl's 2 *Pol. Theor.* p. 174.

<sup>4</sup> *Epigraphia Indica*, 1935, 9, 48.

<sup>5</sup> C. 133 A, D. See Supra, Note 1.

<sup>6</sup> *Ep. Ind.* IV, 44-45.

<sup>7</sup> *Beal's Trans.*, Vol. I, p. 211.

<sup>8</sup> See Supra, *Theor. of the State*.

<sup>9</sup> C. 135 B-C.

<sup>10</sup> *Itan. - Harsha Charita*, p. 154.

<sup>11</sup> C. 623 B-C.

<sup>12</sup> *Waldschmidt*, *Ch. I*, p. 15.

"personal beauty" carried great weight as regards the choice by the people.<sup>1</sup> This is corroborated by Buddhist writers as well.<sup>2</sup> Magasthenes recorded that *vox populi* was the general determining condition of succession on the regulating principle of merit.<sup>3</sup>

The Vedic references illustrate common interest in avoiding defeat and gaining military victory. In the Epics personal qualifications are demanded for the people's good. The later historical citations emphasise the political conditions of the periods and their far-reaching effects. It is actual popular authority consciously acting for definite ends in all corporate capacities. Otherwise there seems to be little difference between Vedic election and the very last one in Indian history, which is of Gopala noted above.

## NOTE 3

### *The Hundred Men Standard*

Hindu Politics, so far as known at present, never rose to the absolute idea of *vox populi vox dei*. Professor B. K. Sarker has stretched too much the hundred-men standard of Śakra-chakya<sup>1</sup> in thinking that this popular demand was of the level of Rousseau's famous maxim. Śakra's own position would rather be like this negatively:—Going against popular opinion is against righteousness and "righteousness is the voice of God."<sup>2</sup>

<sup>1</sup> *Modern Review*, Aug. 1929, p. 14, *Camb. Hist. of India*, I, p. XVI.

<sup>2</sup> *Ross's History* II, 243—*Uttara Mahab. and Sankar's Mahabharata* Vadakam, Vol. I, p. 294.

<sup>3</sup> Fragment I., vide Sarker's *Pol. Inst. & Theo. of the Hindus*, p. 62.

<sup>4</sup> Sarker's *Types of India* 326, p. 21. See Chap. V., on *Vox Populi*.

<sup>5</sup> *Śakra* 326, pp. 287, 287.



At the most it could be like the idea of Herodotus that "in the many all things are found,"<sup>1</sup> with a practical import. More significant and powerful is the idea—"there is God in the pañch" (i. e., the five, or the committee of the five), showing the element that is divine in the findings by a number of people.<sup>2</sup> Such an idea gives at once absolute authority and validity to the pronouncement of "the five," which would naturally be representative of popular demands and notions.

Another striking characteristic of "the five" is its purificatory power in the popular mind. Its decision and award of punishment is supposed to purge the offender of his sin. Dr. Mukherji has adduced the proverbial phrase, "Pañchayet Gangā," in support of this view. The Committee of the five is "the Ganges river" to the man fallen in the eyes of custom and law; and as the Ganges purifies the bathor, the offender is likewise purified by the verdict of the pañch.<sup>3</sup> This is evidently based on the maxim of Purāṇas—"Like water.....that is purified by the agency of the Sun and air, a penitent is purified of his sin through the dictate of the synod. As water that is dried up by the Sun and air, the sin of a penitent is extinguished by the order of the parishad. It does not attach itself either to the penitent or to the synod."<sup>4</sup> For a similar idea of expiation of sin through punishment inflicted by the king reference may be made to the "Principles of Punishment,"<sup>5</sup> in the writings of Hindu Political thinkers. The thought in both cases expects, having first assumed the principle, the neutralisation of the evil effects of offence by the opposite effects of condign punishment timely meted out.

<sup>1</sup> Quoted in Greek Commonwealth, p. 108.

<sup>2</sup> Marshall, "Village Govt." p. 18.

<sup>3</sup> Democracies of the East, p. 271.

<sup>4</sup> Purāṇas, Sukhānā, VIII 15, 16.

<sup>5</sup> See Index, Govt. on the subject.

Another conception closely related to Vax Populi is that of looking upon the whole body of the people as the god Viṣṇu. It is more generalised than the idea of God dwelling in the Pañch, the committee of the five. Chandelwani in his *Raja-Niti Ratnākara* has categorically asserted that "the people (collectively) are the very god Viṣṇu,"<sup>1</sup> meaning thereby that the divine is embodied in the people and therefore they ought to be treated with respect and their unanimous voice has consequently a sacred validity.

## NOTE 4

### *Radicalism in Sacred Law*

Although the sacred laws do not as a whole or everywhere stand for radical principles, like those of the *Mahābhārata* and the *Sūkra Niti* dealt with before, yet some of them are not altogether silent on the subject of the abuse of political authority in any way. Their attitude is characteristically judicial in this respect and consequently is not so drastic, nevertheless strong and at the same time consistent with their canonical and generally orthodox outlook. The object aimed at by them is restraint and punishment of royal delinquency rather than total destruction and tyrannicide. Only two exceptions, in *Yājñavalkya* and *Mānu*, are met with in the whole range of canonical law, where radicalism of the Epic type is incorporated with legal literature.<sup>2</sup> Such a stream of thought coming down presumably from a very old tradition is at present untraceable back to its source. Both in *Mānu* and *Yājñavalkya* is noticed the mention of the

<sup>1</sup> p. 68, Chandelwani's Ed.

<sup>2</sup> See *Sūtra*, Ch. VI, *Yājñavalkya* and *Mānu* on revolution.

judicial hold on the king ending in a voluntary, or better still customary, penitential observance. This legal check on royal power is also found in the *Mahābhārata* imbedded along with the boldest and the most sweeping penance-sentences.

The judicial method treated here seems to be akin in spirit and procedure to the ancient custom (law ?) requiring the king to compensate undiscovered and undetected theft and the assumption is that such a custom is invariably followed and carried out, there being none to enforce it. Gautama, one of the canonical legislators, lays down that—

“Having recovered property stolen by thieves, he (the king) shall return it to the owner, or he shall pay out of his own treasury (if it is not recovered).”

This is in reality an indirect method of fixing the head of the state for indifference or lack of proper policing, since it is supposed that the people cannot suffer having paid taxes. Otherwise there is no other explanation for a rule of this type in the canonical writings. It takes for granted that the king is in charge of the whole state and his duty is protection and loss means mismanagement on his part. More serious mismanagement only makes for misrule. This idea comes straight down to the *Āgri Purāṇa*<sup>1</sup>, modified and modernised to a great extent, where the king is allowed to deduct the amount from the salaries of police officers.

The rule of direct fixing is prescribed by *Yājñavalkya*, another canonical legislator of great repute, in case of any miscarriage of justice by the ruler. The idea is the same as above, but the cause and content are different. With reference to unjust punishment in the shape of fines his recommendation runs as follows:—

<sup>1</sup> Gautama, I, 44-47, Cf. *Viśṇu* III, 26-27.

<sup>2</sup> Cf. 372.

"The *śūdra* that has been realised by the king illegally, he shall make thirty-fold (from his own pocket) and after dedicating the same to Varuṇa (the god of water) he shall make it over to Brāhmaṇas."<sup>1</sup>

Maṇu's treatment of the matter is, as is expected, thorough as well as drastic. In him the sacred law rises to its highest pitch combining together the characteristics of orthodoxy and radicalism. He enjoins direct restraint to be exercised on the ruler by the Brāhmaṇas as law-givers, and then fining him proportionately for offences committed by him. Thus—

"If common people are fined 10 *panas* for an offence, the king shall be fined 1000 *panas* (100 times more) for the same offence and the royal fine shall be thrown into water."<sup>2</sup>

Then he lays down the general proportionate rule for all castes beginning with the lowest. For instance—

"For theft (misappropriation etc.).....Kshatriyas (the ruling class) should be fined 35 times more and the Brāhmaṇas 100 times more."<sup>3</sup>

His explanation for allowing the Brāhmaṇas to check the king in any undue exercise of royal authority is the orthodox conception that the Brāhmaṇa is the original caste, the first in respect of birth as well as culture.

"Brāhmaṇas shall restrain the Kshatriyas, the ruling classes, (through curses etc.), since the latter grew out of the former. As fire is born of water and iron is made out of stone and Kshatriyas grew from Brāhmaṇas.....their forces vanish at (in touch with) their sources"<sup>4</sup>

Apparently the *Mahābhārata* has closely followed Maṇu, or in other words the old tradition that is represent-

<sup>1</sup> *Yājñavalkya*, 379-312

<sup>2</sup> *Manu Smṛiti*, VIII, 316.

<sup>3</sup> *Ibid.*, VIII, 317.

<sup>4</sup> *Ibid.*, IX, 322-321.

ed in Mann's Laws, with slight variations here and there. So far as the orthodox stratum of the Epic politics is concerned, it may be safely said that it contains no new matter on this point, more than being just a little bolder with the passing of time and perhaps a little more advanced from the contact with later radicalism. Otherwise the thought and the explanation are the same in every respect, accepting the old sociological data handed down from the Vedic period, which is Brāhmagical superiority in everything due to seniority in growth.

"When the Kshatriyas become turbulent towards Brāhmanas, the Vedas (representing holy knowledge) would save them, and they must at the time thwart them (the Kshatriyas), carefully protecting themselves by all means, such as religious penances, force and weapons, goodness and policy. Fire rose from water, the Kshatriya from the Brāhmana, and iron from stone; their forces can act everywhere, excepting on their own place of birth."<sup>1</sup>

There is also a significant hint in this connection in the text, about four lines below the extract given above, that "all the castes ought to take up arms to protect Brāhmanas" under such circumstances. This seems to be an addition to the orthodox thought of this portion of the Mahābhārata.

Even in the secular politics of Kautilya much of the canonical tradition is found intact, almost verbatim. He has the same treatment for theft as in Gautama, and for illegal fire as in Yājñavalkya.<sup>2</sup> This is explained on the basis of the theory of punishment as absolution from sin and as such it was the common idea of Hindu India.<sup>3</sup> The

<sup>1</sup> Śaṅkī Parva, 73.

<sup>2</sup> See above.

<sup>3</sup> Yājñ. Smṛti, Ch. XI, Theory of Punishment.

passages bearing on this matter are given below from the *Artha Śāstra*—

(a) "Whatever of the property of citizens robbed by thieves the king cannot recover shall be made good from his own pocket." Further—

(b) "When the king punishes an innocent man he shall throw into water a fine equal to thirty times the unjust imposition." "By this act the king shall be free from the sin of unjust imposition."<sup>1</sup>

Throwing of the king's fine into water for the sake of the god Varuṇa and giving it to Brāhmanas are also mentioned by him, up to the fining of the heads of villages.<sup>2</sup>

## NOTE 5

### I

#### *Divine Right, Eastern and Western*

The main lines of thought, dealing with the Divine Right of Kings, being almost similar and parallel in the West as well as in the East, the differences do not come up to the surface as often as expected. Yet there is a crucial difference in the very source of the idea on which authority was supported and explained. Agreement of the principal features of the subject has already been laid down, but there remains still one particular point, characterising the Eastern approach to the problem, which shows the divergence inside apparent similarity. The theory of incarnation, in its extreme generalisation, is seen in Indian religious literature, where anything with any degree of special or remarkable excellence is said to be so far representative of and pertaining to the perfection of God. Thus the *Gītā* says in the words of its incarnate god Kṛishṇa—

<sup>1</sup> *Artha Śāstra*, pp. 342, 358.

<sup>2</sup> *Ibid.*, pp. 355, 359.

"In fact of things possessed of excellence and power  
 All are created out of the parts of my own (divine)  
 quality."<sup>1</sup>

That such religious attitude affected politics itself may be posited with some degree of certitude, and such influence was usual and partly unavoidable in all early thought. Hence naturally enough the king as the supreme head of the state, typifying a kind of human excellence, was considered a fraction of a partial incarnation of the divine. It is but a logical conclusion of a period, when politics and religion were in very close connection and admitted mutual exchange of ideas to a considerable extent. Moreover, this supplied a good explanation of royal authority, where there was none of the kind, and a safeguard against popular attacks, (or encroachments), when political power itself was not properly consolidated.

In the West the king was made into the vicegerent of God on parallel assumptions of a theological nature. That is to say he fully represented God and His power on earth without being God in any sense. It served the same purpose of establishing authority of the time on solid grounds. About the growth of this conception Dunning says—"Authority from above and not from below was the principle of both ecclesiastical and secular order; and if episcopal authority should give way so that of chosen representatives of the congregations, the royal authority was likely to experience a like fate—No Bishop, no king.....On this platform of a divine commission to

<sup>1</sup> *Gen.* X (see translation); Cf. Carlyle's *French Revolution*—"A symbol which might be called sacred, for it does not in reverence for what it bears than we, an indelible mark? On which ground too it was well said, there lay in the acknowledged strongest a divine right as surely there might be in the strongest, whether acknowledged or not, considering like it was that made him strong."

rule James consistently maintained his stand against all pretensions to power by his subjects.<sup>1</sup> Texts were not wanting, nor was interpretation failing to give a full religious colouring to this political question.

Yet the East evidently outdid the West in respect of finding out an almost absolute theological foundation for royal power. This again is due to the innate difference between the two religions—Hinduism and Christianity—which were called to aid and erect the theory of divine right. Christianity as a religion did not and could not have admitted a multiplicity of incarnations, which perhaps accounts for the idea of the deputation of authority from God. Hinduism had a larger scope and had not to labour under scruples of this type. Consequently the conception was pressed to the extreme allowing the king to be magnified on various grades and styled "the chief god on earth."<sup>2</sup> This was certainly more than what is meant by "God's viceregent on earth," although for political purposes both ideas were alike and practically served similar ends. Further, in making the king an incarnation of God the Hindu religion successfully evaded and suppressed all popular pretensions, since no higher position could be predicated of any being under the sun. This was undoubtedly the worst possible theology, probably outrageous in its consistency and doing more for politics than for itself. Even Dante's bold statement pales before it as he says—"all powers that are sub-derived by superior rulers can in the last resort be regarded as emanations from the divine government of the world."<sup>3</sup>

<sup>1</sup> Dunsing, *Pol. Theories from Luther to Hockington*, pp. 219-217.

<sup>2</sup> See above, Chapter VII, Divine Right of Kings.

<sup>3</sup> Gieske, *Pol. Theo. of the Med. Age*, p. 55.



## II

## Opinions of Authorities

(1) Professor P. N. Banerjee holds that 'the Hindu King's claim' was very different from the divine right... 'the right divine to govern wrong' to use the words of a famous historian—which was claimed by the monarchs of Europe in the latter part of the middle ages. Kingship in India was a political office and not the sphere of power of a fortunate individual."<sup>1</sup>

(2) Professor Bhambalker's view is that "a theory similar to this is the theory of the divine right of kings, which was started and developed in Europe by the Christian apostles and fathers. We know to what absurd and pernicious extent it was carried in Europe. Fortunately for India, though the divine origin of kings was maintained by some people, it was never pushed to this absurd extreme, or for the matter of that to any absurd extent."<sup>2</sup>

(3) Professor B. K. Sarkar has observed "that the king is not sacred...Hindu thought does not seem to have ever recognised any "divine right" of kings, just as Hindu history does not know any theocratic state."<sup>3</sup>

(4) Dr. U. Ghose's position is that 'the king is never declared to be a god by virtue of hereditary descent. The king then has no indefeasible hereditary right following as a corollary from his divinity."<sup>4</sup>

(5) Dr. K. N. Law has remarked in connection with the "Evolution of Kingship" without any explicit reference to the point itself. "We have noted the various other ways in which supernatural powers may be attributed to the

<sup>1</sup> Public Adm. in Anc. Ind. p 74.

<sup>2</sup> Cardinal Lectures, p 159.

<sup>3</sup> Pol. Inst. & Theo. of the Hindus, p 152.

<sup>4</sup> Hist. of Hindu Pol. Theo. p 55.

sovereign. It is but a step from these supernatural powers to his godhood and the former easily leads to the latter". But "deifications.....are not the exclusive possessions of kings" in India.<sup>1</sup>

(4) Mr. E. B. Havell has clearly put the point like this, ".....In Aryan polity the divine right of kings was never recognised as a personal attribute of the monarch belonging to himself and his family. He had no right except that which was conferred by Aryan Law....."<sup>2</sup>

(5) "It is to the credit of the speculative mind of the Hindus that it long ago perceived the necessity of recognising the existence of limitations to the absolute authority of the state, over and beyond what is called the normal right to resist gross misgovernment.....In the later evolution of theories of sovereignty and of doctrines of Divine Right, Indian conceptions made a most significant reservation, which theories in the West did not do. In India no king however divine was above the law... Western Europe has only in recent years discarded the absolute theories of sovereignty which Austin purified in England". This is Mr. Row's finding.

(6) "Neither in the Vedic period nor in the times of Kautilya, divine birth or right of kings seems to have been thought of.....Later politicians of India seem to have invested and developed the idea of divine birth and right of kings as the *slas qua non* to royal power"<sup>3</sup>—says Dr. S. Sastri.

(7) "The East has an instinctive belief in kings as heads of states and does not think it impossible that there may be a 'divine right' of kings, i.e. a right to serve the

<sup>1</sup> Aspects of Anc. Ind. Polity, pp. 122, 123.

<sup>2</sup> Aryan Rule in India, p. 25.

<sup>3</sup> Rev. Devak. of Dames, in India, p. 116.

<sup>4</sup> Evolution of Indian Polity, S. Sastri, p. 145.

state in its most exalted position, won by less onerous services well and truly performed in past lives."<sup>1</sup>

(10) ".....This justification by the highest authorities of the right or even the duty of insurrection and regicide in extreme cases is sufficient to show that absolutism or the unconditional divine right of kings was no part of the intention of the Indian political system."<sup>2</sup>—Arabindo Ghose's finding.

(11) "Both jurists and political scientists rejected the trick<sup>3</sup> of the 'Divine Right'....It was opposed to all tradition, Vedic rituals of coronation and kingship and the very spirit of Hindu Law, which refuses to place even gods above the law and which distinctly places kings under it."<sup>4</sup>—Jayaswal's opinion.

## NOTE 6

### *Brāhmana-Kshatriya Combination*

Historically it is impossible to find out the exact conditions, that brought about the formulation of constitutionalism in India, as much as the time when it rose and took shape definitely. Only a vague guess is at the most possible with the data procurable from the records of the past. The Brāhmana-Kshatriya combination, which is so clearly and positively indicated in the *Mānu Smṛiti* and the *Mahābhārata*, gives a clue to be worked out properly, and has also great value from the philosophical standpoint. It was a necessity of the time, at first practical and afterwards theoretical. A suggestion may hence be made to the effect that the very fact of the unity between these two divisions

<sup>1</sup> Meeting of the East and the West, *Journalism*, p. 24.

<sup>2</sup> A Def. of Ind. Civ., by Arabindo Ghose, Arjo, Cal. 1902, p. 172.

There and Yājñavalkya, pp. 26, 27.

<sup>4</sup> Ibid p. 151.

of the people, representing intellectual and military powers in society, supplied the starting-point of constitutionalism or an effort to co-ordinate the forces through compromise to the conservation of interests. The earliest notice of this synthesis is found in the *Ṛig* and the *Atharva Vedas* and consequently the fact recedes behind strictly historical periods. Say the *Ṛig* and the *Atharva Vedas*—

(a) "The king and the scholarly priest are the sustainers of the world order".<sup>1</sup>

(b) "As Brāhmanhood and Princely power fear not, nor suffer loss or harm".<sup>2</sup>

It is to be understood that by the time the tenth book of the *Ṛig Veda* was written, later additions were made to it like the verses on the four castes. The *Atharva Veda* has generously dilated on it giving the parallels of heaven and earth, day and night, the sun and the moon, to illustrate the co-ordination of the powers, like Dante's use of the analogy of the sun and the moon in regard to the church and the state, spiritual and temporal powers, the Emperor and the Pope.

The tradition was accepted as authoritative by Gautama<sup>3</sup>, Manu and the Epics and was carried and preserved by the last two works. Manu explicates the position thus—

"Just as the Kshatriya never prospers without the Brāhmana, so the Brāhmana does not increase without the Kshatriya. This world and the next do well when Brāhmanahood and Kshatriyahood are united".<sup>4</sup>

<sup>1</sup> *Ṛig Veda*, X, 62. Quoted in *Religion of India*, p. 35.

<sup>2</sup> *Atharva Veda*, II, 13, Griffith's Trans.—So the Atharva Brāhmana absolutely distinguishes between "Holy power" and "Laudly power"—

"He who has recourse to the Kingship, has recourse to the Laudly power"

"He who has recourse to the sacrifice, has recourse to the Holy power"

(Koch's Trans., Harvard Oriental Series, Vol. 25, p. 211.)

<sup>3</sup> VIII, 1.

<sup>4</sup> Manu, IX, 202.

Again—

"The Brāhmanas and the Kshatriyas are the root and the head respectively of righteousness",<sup>1</sup>

The Epic practically repeats Manu and has probably no theory of its own to offer in place of that of the great legislator. Moreover, the radicalism of the Epic did not allow it to pass uncriticised. The following lines illustrate the usual orthodox position—

"Brāhmanas and Kshatriyas powers being united destroy enemies. If the kindness of Brāhmanas and the power of the Kshatriyas are united happiness and prosperity increase in the world".<sup>2</sup>

"The people cannot be protected, when the powers of the Brāhmanas and of the Kshatriyas are separate. They ought to be combined in the opinion of the wise for the purposes of (good) government".<sup>3</sup>

It was Kāṭhavyāsa, who challenged this Brāhmanic supremacy by saying that "the Brāhmanas lived in the shelter of Kshatriyas and therefore they could not be considered to be superior".<sup>4</sup> He tried to make the world "Kshatriya-dominated" in the language of the Epic and thus he met with his end.<sup>5</sup> Definite Brāhmanic supremacy is asserted in the Aśvamedhik Parva<sup>6</sup>, in giving the highest position to the Brāhmanas.

### *Number of Ministers*

The Hindu theorists usually tried to do things to perfection. The numerical strength of the state council, or the ministry, was one of the points which they tried to calculate and put down as a rule. Different authorities fixed it differently. The "sabhāccharas" and "sabhā-sadas"

<sup>1</sup> Eoā, XI, 64.

<sup>2</sup> Yana Parva, 54.

<sup>3</sup> Bhīṣma-smarita Parva, 74.

<sup>4</sup> Anuśāsan Parva, 120.

<sup>5</sup> See Chapter on Republics in Supplementary Volume.

<sup>6</sup> 10.

of Vedic fame are already known<sup>1</sup>, though they are not to be regarded as ministers, yet they were important factors in the state.

The following numbers are recommended—

1. *Manu*—seven or eight ministers.<sup>2</sup>
2. *Mahābhārata*—four Brāhmanas, eight Kshatriyas, twenty-one Vaiśyas, three Śūtras, and one Suta, or at best three on the whole.<sup>3</sup>
3. *Kautilya*—quotes authorities. According to *Manu* twelve, *Bṛhaspati* sixteen, *Uśana* twenty, his own view being as many as are required by the state.<sup>4</sup>
4. *Kāmandaka*—follows *Kautilya* in citing authorities and recommends five, seven or more.<sup>5</sup>
5. *Śukra*—is not quite explicit. Probably he means a cabinet of the ten heads of departments, called the "king's ten departments".<sup>6</sup>
6. *Somaśekhara Suri*—three, five or seven ministers should be appointed.<sup>7</sup>

## NOTE 7.

### *Practical Political Ahimsa*

The climax of the ahimsa doctrine in the sphere of practical politics is shown by a Buddhist legend found in a number of books. Here the East conceived the inconceivable, namely, a whole nation given to absolute non-violent and non-resisting attitude in the very face of an attacking enemy. Dr. B. M. Barua in his forthcoming

<sup>1</sup> *Aspects of Anc. Ind. Polity*, p. 25.

<sup>2</sup> VII, 54.

<sup>3</sup> *Śāstra Parva*, 22, 65.

<sup>4</sup> *Artha Śāstra*, pp. 32-3.

<sup>5</sup> *Nai. Sāstra*, p. 132.

<sup>6</sup> *Śāstra Nīti*, p. 68.

<sup>7</sup> *Nāṭakyaṇṭakādh*, 22, p. 123.

book on the Buddhist Inscriptions has referred to the story in full details. It has four versions, Pali, Sanskrit, Chinese and Tibetan, all agreeing as to the main drift of the plot.<sup>1</sup> The appropriate motto of the legend is "Even if they be dying themselves". The world has probably no other (even imaginary) history of this type to portray social idealism of such an exalted character.

The narrative, when it is collected and completed from the *Bhaddanta Jātaka*,<sup>2</sup> the *Avadānakaṭṭapaṇṇā*,<sup>3</sup> Rockhill's *Buddha*,<sup>4</sup> Huen Tsang's *Travels*,<sup>5</sup> gives the picture of the Śākya clan after their thorough assimilation of the teachings of Buddha. Dr. Barua describes the incident as follows :—

"The common point in all these versions is that to feed his ancient grudge, king Viṣṇusāhā or Viṇḍhaka of Kosala advanced with a large army against the Śākyas and as he reached the boundary of his kingdom, he found the Master (Buddha) seated beneath a tree, that gave scanty shade and stood on the boundary of Kapilavastu. Hard by that place, a shady tree stood on the boundary of Kosala. According to the Pali version the latter tree was a huge banyan. Viṇḍhaka, seeing the Master thus seated, alighted from his chariot and said respectfully approaching him, "Why, Sir, are you sitting there under so thin a tree in all this heat? Why do you not sit here under the umbreous tree, Sir?" He replied, "Let it be, O king! The shade of my kindred keeps me cool". The other thinking the all-powerful Master had come to protect his clansmen returned to his capital after saluting him. In the Pali story we read that three times he marched and returned on account of the Master's interven-

<sup>1</sup> *Hist. of Buddhist Inscriptions*, II, Pt. No. 176. Cf. *Camb. Lec.* 1915, p. 67.

<sup>2</sup> *Buddh. Hist. of Ind.*, p. 28.

<sup>3</sup> No. 455.

<sup>4</sup> V.

<sup>5</sup> Pp. 77-78, 110-112.

<sup>6</sup> *East's B. Records of the W. World*, II, p. 4.

don. The fourth time he set out, but the Master did not go, seeing it was impossible to over the Śākya, who united against one another (by quarrelling). The label refers to the non-violent attitude of the Śākya, taking advantage of which Virudhaka slew all the Śākya except Mahabala and his family and those who fled away".

It happened in this way, "All the Śākya took a strong vow to remain non-violent to the last, even if they died. They expelled their champion Sampaka, who gave battle not previously knowing their decision. When Virudhaka reached with his troops to Kapilavasta, those among the Śākya who were not Buddhists, (only a small and unimportant), got together their army to repulse him and those who were Buddhists and averse to killing anything carried cudgels and goads to cut the bow-strings and trappings, though at last with a united resolve, they issued a proclamation prohibiting all from attacking Virudhaka or his army". Thus died the whole clan of the noble Śākya, who had the courage to act out in practical life the teaching of Buddha on non-resistance and non-violence. The imagery is full of pathos considering the three stages of arriving at the momentous and decisive conclusion. One can imagine them discussing the points rationally in their note-book. This was certainly worthy of the clan that produced the great Buddha, the light of Asia.

The story may not be fully true in all details, but the idealism of the story-teller is praise-worthy in conceiving absolute ahimsa on a national scale. It shows once more the depth to which Buddhist ethics had gone into the hearts of men, before such an account as this was possible in the imagination of the writer. Thus today Mahatma Gandhi's nation-wide appeal may be well understood from this stand-point, where politics and economics are both to be spiritualised for serving the highest ends of humanity.



## NOTE 8.

*Political and Legal Sovereignty*

The distinction between political and legal sovereignty is not very clear in Hindu thought. Both shade off imperceptibly into each other, causing the same confusion of ideas as in the West. The Doctrine of *Dapṛa* has political as well as legal content, but the former is the main concern of political philosophy, since "political sovereignty is practical supremacy". The lawyer is interested in the state, in so far as the state takes in definite organisations recognised by law. The political philosopher, desirous of penetrating more deeply into the nature of things, looks behind such organisations to the powers or forces which find expression in them.<sup>1</sup> This is exactly the view-point of *dapṛa* standing for the supreme power exercised by the state. Its legal character resides in its functions, as punishment (also called *dapṛa*) regulated by *dharma* (law),<sup>2</sup> which limits it and is in turn preserved by it. The power of the state and the power of law are ultimately interchangeable, their spheres, functions and limitations are different, but their source is identical, which is, the ethical principle underlying human nature and society.

*Popular Sovereignty*

The formulation of the principle of popular sovereignty in abstract is not generally met with, except in its extreme form in the right to revolt. The practical precepts of the Vedic age were of great value indeed and so were the

<sup>1</sup> *Ancient Theory of Law*, Jeffrey Brown, p. 375.

<sup>2</sup> See S. Vishnupada's *Bengal Treatise on Law and Punishment in Ancient India*, p. 15.

Wage theory of the Buddhist period and the Social Contract of the time of the Īpic. Yet a philosophical expression or a clear statement was wanted for the sovereignty of the people. The *Agni Purāṇa* in two stray passages supplies the idea in a fairly well developed form. Thus—

"The royalty of the king and the prosperity of the world are born out of the good will of the people. Pleading the people and welfare from the love of the people—these two are the two means to sovereignty."<sup>1</sup>

Here the principle of popular sovereignty is laid down clearly, as far as it was understood in those days and there is no doubt that the will of the people as indicated to be the source of sovereign power. Unfortunately it was never elaborated systematically.

## NOTE 2.

### *Ordeal and Turning-point of Law*

A very important legal development is evidently seen in the insistence on human proofs in preference to trial and judgment by chance or Ordeal. It shows the passage of primitive (sacred) law to positive (secular) law as "directed to worldly ends and purposes of man."<sup>2</sup> Professor Hopkins has unfortunately taken no note of this significant fact in his admirable article on the "Growth of Law and Legal Institutions" in the *Cambridge History of India*.<sup>3</sup> Reference to Yājñavalkya, Viśaka and Kātyāyana could have easily settled the point, for in these writers on law there are amply good suggestions in favour of secular

<sup>1</sup> *Agni Purāṇa*, 164, 165, pp. 365, 366.

<sup>2</sup> Cf. "Politya vyavasthaḥ saptaślokaḥ śāstrakṛtāḥ śāstrakṛtāḥ" (*Vinayāśāstra*, p. 334, 2. *Polityaśāstra's* Ed.)

<sup>3</sup> Chapter XII, pp. 277-304.

law and empirical procedure. In fact Mr. Jayswal has observed that all works of the tradition of the *Ārthashastra* discourage chance procedures.<sup>1</sup>

The question in fact turns on the application of empirical methods for human ends. Mr. A. C. Gupta has commented on this attitude of Hopkins<sup>2</sup> from the strictly juristic point of view, showing how a slight oversight may affect the whole spirit of law and its progress, "The serious study of Hindu Law has suffered owing to the preponderance of exclusive historical interest. One result has been to attract and confuse attention to the primitive strata of Hindu Law to the neglect of the development and the mature system. A recent illustration is Professor Hopkins' chapter in the Cambridge History of India.... The Professor devotes a proportionately large portion of his short paper to an account of ordeals. It prevailed in early Hindu Law just as in other Aryan Laws. A study of Hindu ordeal is of interest to a comparative study of this primitive method of trial."

What is undoubtedly of far greater importance to the jurist is the process by which Hindu Law set at naught these primitive methods, and substituted in their place the rational method of proof by witnesses and documents. But this is exactly the thing which does not interest Professor Hopkins, though he need not have travelled beyond *Yājñavalkya* for a clear account of this process. Judicial proof consists of documents, evidence of possession and witnesses. If none of these are available, resort is to be had to proofs divine, i.e. ordeal.<sup>3</sup> The *Mīmāṃsā* thus brings out the meaning of the text. It is from this text alone that one knows that in the absence of human

<sup>1</sup> *Shāstras and Yājñavalkya*, p. 126.

<sup>2</sup> *Spirit of Hindu Law*, Cal. Univ. Journal, XLIII, Jan., 1938, p. 11.

<sup>3</sup> *Yājñavalkya*, II, p. 38.

and rational proofs ordinal is a mode of judicial proof; for the nature and validity of ordinal as proof can only be known from the text of Śāstra. And therefore where of two disputants before a court of law, one has human proof and the other resorts to ordinal or divine proof, the human proof is to be accepted. As Kātyāyana says—if one adduces human proof and the other divine proof, the king must accept the human proof and not the divine.<sup>5</sup> Further according to the gloss Śubodhini—if ordinary empirical method of proof is available, it is improper to resort to the supra-sensible.<sup>6</sup> "The nature of ordinal and the validity of its proof are known only from the Śāstra and it is thus supra-mundane and supra-sensible. And so long as empirical proof is possible, there is no scope for the supra-sensible mode of proof."<sup>7</sup>

This method of restricting the scope and of practical supersession of a primitive traditional institution of law, by classifying judicial proofs into human and divine, is an interesting device in the development of all systems of law. It is the same case with Roman Law of conveyance, and classification of things into *res mancipi* and *res nec mancipi*. Hindu Law got rid of the primitive religious and semi-religious elements by developing a sharp distinction between things mundane and things supra-mundane, between what is religious and what is temporal, by giving to God what is God's, but to Caesar what is Caesar's.<sup>8</sup>

The turning point of Hindu Law is thus illustrated in the system of ordinal, and it is only one of the instances where the passage to positive law is indicated in unmistakable terms by more than one law-giver. In simple

<sup>5</sup> See *Spirit of Hindu Law*, *Col. Law Journal*, XLIII, Jan. 1923, p. 11.

<sup>6</sup> *Ibid* and Mathabek, II, 32.

<sup>7</sup> Quoted in Mathabek, II, 32.

<sup>8</sup> *Spirit of Hindu Law*, *Col. Law Journal*, XLIII, Jan., 1923, p. 14.

words "ordal was imposed on law" according to Mr. Jayaswal.<sup>1</sup>

Hopkins probably agreed with Willoughby, who in his "Nature of the State", (p. 12), held that Hindu Law had its origin and sanction only in religious scriptures. It is unfortunately a statement, which has failed to distinguish between the two definitely marked divisions of law, which obtained among the Hindus of ancient time. Fortunately Jelly has pointed this out roughly on the authority of Āpastambha 2, 29, 6 and Yājñavalkya, 2, 22 and later law-givers.<sup>2</sup>

## NOTE 10.

### Analysis of Ownership.

#### *Vijñānencara and Jivadarakara.*

The treatment of ownership in the abstract by later Hindu jurists is instructive as well as profitable in directing and contributing thought to the problem of property. The summary disposal of ownership, seen in Nārada, Bṛhaspati and Śakra on the basis of mere possession<sup>3</sup>, is legally explicated by Vijñāneśvara in the Mṛdādhara Commentary. Having started from the eight classical and traditional modes of proprietary right or acquirement of ownership, such as inheritance, partition, gift, purchase, labour, finding, seizure and conquest according to Guntama,<sup>4</sup> he raises the question—"Is ownership a concept known exclusively from Śāstra, or is it a concept reached through other and secular sources of knowledge?"<sup>5</sup>

<sup>1</sup> Manu & Yājñavalkya, p. 124.

<sup>2</sup> Hindu Law & Customs, p. 206.

<sup>3</sup> See above Ch. XII on Property; Nārada, I, 24, 58 (B. B. E.), Bṛhaspati, IX, 25 (B. B. E.), Śakra, p. 212.

<sup>4</sup> Guntama, Śaṅkara, X, 28-42.

<sup>5</sup> Mṛdādhara II-124.

It is both technically and philosophically an important point, since the very object of ownership is deeply involved in it and this is determined by the interpretation given to it. Indeed "some Mimamsā writers set up the doctrine, as things are necessary for the performance of all (religious) sacrifices, property in things is a religious concept and should be regulated by religious principles."<sup>1</sup> As noticed at the beginning of the chapter on property the idea comes down from the *Bṛhadāraṇyaka Upaniṣad*. It has nothing very significant in it, except illustrating the psychology of property as a realised need. The over-emphasis on the religious principle by this school is to a certain measure similar to what Dunning has pointed out as the extreme religious claim according to papacy over all temporal things including property.<sup>2</sup> Hindu orthodoxy was naturally enough keen on the point of assigning all property to purely religious purposes and seeing only a religious object in it.

Vijñāneśvara's broad reply is—"But notwithstanding these arguments, ownership is in fact a matter of secular experience, for it serves secular ends and purposes like food-grains and other earthly objects". Moreover, "it is not possible to maintain that, what serves secular purposes, like sale etc., is the material object like gold, while ownership is supra-sensible, for a purpose like sale is not served by the thing but by ownership in the thing."<sup>3</sup> It is a really subtle argument, since "what is not one's property will not serve one's purpose like sale". Ownership, therefore, is a complex idea depending on its purely non-secular

<sup>1</sup> *Spirit of Hindu Law*, *Columbia Law Journal*, XLIII, p. 1.

<sup>2</sup> Dunning, *Pol. Theories, Ancient and Medieval*, p. 117. The saying of Augustine may be remembered here—"private property comes to be made only divine law for the sake of charity." (*Ibid.*, p. 116).

<sup>3</sup> *Spirit of Hindu Law*, *Col. Law Journal*, XLIII, p. 2.

and unpre-sensible character. Yet it cannot be easily separated from the concrete, though it is abstract by nature, and the concrete is always carried on with the conceptual element.

Ownership does not mean merely perceptual recognition or experience as in the case of possession. It goes deeper than this external sign of ownership of a primitive stage. Says *Vijñāneśvara*—"Again if ownership were but a fact of perceptual experience, complaints such as my property has been stolen would be meaningless, for the ownership would be in a thief; and moreover if such were the nature of the ownership there could not have been any doubt in a matter of disputed ownership, whether it belongs to this man or to the other, as there is no doubt when in fact a thing is of gold, that it is gold, or of silver that it is silver." In summing up his argument the commentator has observed that "it may not be understood that all this leads to the position that there is ownership in things got even by thefts etc., for such are not recognised amongst men as modes of acquiring ownership and the idea would be contradictory to established usage."<sup>1</sup> It is thus again a question "of the existence of titles creating ownership." But the analysis here does not go beyond popular or social recognition and usage. Just a little advance is seen on the position of *Śakra*,<sup>2</sup> which does not mean to be final in comparison to the masterly insight of *Vijñāneśvara*. The basis of recognition and usage in establishing ownership has not been explained and some thing may still be said in this respect. *Vijñāneśvara*'s idea of "again"<sup>3</sup> gives a clue to this problem, but it is not definite enough to furnish a solution going beyond *Mān*

<sup>1</sup> *Māhātmya*, II. 134.

<sup>2</sup> See Ch. XII—*Śakra* on property.

<sup>3</sup> See Ch. XII. on the Basis of Property, and Jolly, *Hindu Law & Customs*, Eng. Trans. p. 201.

and Locke. It undoubtedly involves the idea of creation as noticed above. The progress to a moral consideration of such a title is perhaps what is needed in the way of explanation, which may generally cover every type of argument.

Jinñīśvāhana, the author of the *Dāyabhāga* Commentary, adds this moral element as the key to ownership. Presumably he takes up the argument, and after setting aside mere "Moga", enjoyment of property, as simple possession,<sup>1</sup> sees something ethical in it. Mr. Sarkar has consequently remarked—"Jinñīśvāhana does not controvert the general proposition that a mere moral precept . . . does not over-ride Vyavahāra (positive law) as settled more or less by popular recognition. What he desires to show is that this conception of property is devoid of ethical considerations and consists of physical acts merely. According to him, popular recognition is no doubt a factor of the conception of property, but it must be such as to be ultimately justifiable by the consciousness of *dharma* (duty, righteousness). The chief factor of the idea of property, in his view, is the ethical factor."<sup>2</sup> The commentator has very cleverly used the case of transfer of property to illustrate and support his own position. He adduces the common instance of gifts to priests. Here the worldly side of the thing is the mere appropriation by the priest and it is palpable. But that cannot be said to be the proprietary right he acquires. This is but an incidental action (*pratilipati karmā*) falling short of the expected causal connection. There is something more than the perceptual transference. The real cause of the transfer of proprietary right is "the pious mental action of the

<sup>1</sup> *Vyavahāra-Mūlāṅga*, p. 247, see Ashutosh Mukherjee's Edition.

<sup>2</sup> *Miscellaneous Notes of Interpretation, (Hindu Law)*, p. 205.



votary". It is here that the essence of right is to be looked for in such cases.

The problem of ownership cannot, therefore, be disposed of quite easily, apart from ethical considerations which come in at every step. The object of property also holds this question in solution with other connected ideas. It may not rise to the surface at the time, but its significance is not lost thereby. The commentators have proceeded on juristic assumptions and dealt with the subject from their juristic point of view. They shifted all the conditions under which ownership could appear and tried to place it on a permanent basis, which would not yield to criticism. This is an unchanging element to constitute the very essence of ownership.

## NOTE 11

### *Approximate Chronology of Principal Texts*

1. *Vedic Literature*—c. 1200—1000 B. C.  
Rig Veda, Yajur Veda, Atharva Veda (still later).  
(From Max Müller's *Rig Veda Samhitā*).
2. *Brāhmaṇa Literature*—c. 800—500 B. C.  
Aitareya Brāhmaṇa, Śatapatha Brāhmaṇa,  
Taittirīya Brāhmaṇa.  
(From Keith's Article in *Cambridge History of India*.)
3. *Upanishadic Literature*—c. 500 B. C.  
Bṛhad aranyaka Upanishad, Chāndogya Upanishad.  
(From Farquhar's *Outline of Religious Literature*).

<sup>1</sup> See *Ibid.*, p. 384.

4. *Legal Literature*—c. 600 B. C.—700 A. D.  
*Sūtras*—c. 600—400 B. C.  
 Gautama, Baudhāyana 600-500 B. C. Āpastamba,  
 Vaśiṣṭha 500-400 B. C.  
*Sūtras*—c. 300—700 A. D.  
 Manu, c. 300 A. D., Viśhva, c. 300 A. D., Viśhva-  
 valkyā, c. 400 A. D., Nārada, c. 500 A. D.,  
 Bṛhaspati, Kṛtyāyana, c. 600-700 A. D.
5. *Epic Literature*—c. 500—50 B. C.  
*Rāmāyana*—c. 500 B. C., *Mahābhārata* (present  
 form) c. 300 A. D.  
*Harivaṃśa*—c. 400 A. D.  
 (From Macdonnell's *History of Sanskrit  
 Literature*).
6. *Purāṇa Literature*—c. 400 A. D. ff.  
*Viśhva Purāṇa*—c. 400 A. D., *Bhāgavata Purāṇa*,  
 c. 500 A. D., *Agar Purāṇa* c. 700 A. D., *Matsya*  
*Purāṇa*, c. 1500 A. D., *Devī Bhāgavata*, c. 1500  
 A. D., *Yogavāiṣṭha Rāmāyana* c. 1500 A. D.  
 (From Farquhar's *Outline of Religious  
 Literature*).
7. *Non-Brahmanical Literature*—c. 400 B.C.—1200 A.D.  
*Buddhist*—c. 400 B. C.—500 A. D.  
*Dīgha Nikāya*, *Mahāvastu*, *Jātakas*—c. 400  
 B. C (?)  
*Saṃyutta Nikāya*, *Anguttara Nikāya*, *Cetukūṭa-*  
*śāstra* c. 400 A. D., *Mahāvastu* c. 500 A. D.  
*Jain*—c. 900-1200 A. D.  
*Nīlīlīkyaṃśasth*—c. 900 A. D., *Laghu-Arhan-*  
*ṇa*—1089-1173 A. D.  
 (From Ghose's *History of Hindu Political  
 Theories*).

8. *Secular Literature*—c. 800 B. C.—1600 A. D.

*Artha Śāstra*—c. 340 B. C., *Nṛsi Śāstra*—c. 300 A. D., *Bṛhaspati Śāstra*—C. 1200 A. D. C)  
*Śukra Nṛsi* c. 1200 A. D., *Vṛamīrodasa*  
 c. 1200-1400 A. D., *Vivadaratākara*, *Raja-*  
*nīlīnīśākhara*.

(From the Introductions to the works).

9. *Commentators*—c. 900-1600 A. D.

*Medhatithi*—c. 900 A. D., *Vijānāśvara*—c. 1100  
 A. D., *Śrīyana* c. 1200 A. D., *Kaṭhaka Bhaṭṭa*—  
 c. 1400 A. D., *Mādhava*—c. 1200-1600 A. D.,  
*Nandana*, *Rāghavānanda*.

(From McDonnell's *History of Sanskrit Liter-*  
*ature*).

10. *Classical Sanskrit*—

*Mahābhāṣya*—c. 150 B. C., *Śāpṭilevadhaṇi*  
 c. 900 A. D., *Raghavachārṇa* c. 600 A. D.,  
*Mudrārāśāṣa*—c. 800 A. D., *Hitopadeśa* c. 1013  
 A. D.

(From McDonnell's *India's Past*).

11. *Philosophy*—

*Yoga-Sūtra* c. 400 A. D., *Śāṅkara's Bāṣhya*  
 c. 800 A. D., *Bhāṭṭa*, c. 850 A. D., *Nyāyamañ-*  
*jarī* c. 1000 A.D.

(From McDonnell's *India's Past*).

12. *Lexicons*—

*Amarakośa*—c. 600 A. D., *Vaijayanī*—c. 1050  
 A. D., *Śāṅkara's Padma*, *Abhidhāna Rājendra*.

(From McDonnell's *India's Past*).

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